



**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEBRASKA**

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**EVA ROEBER**  
CHIEF DEPUTY

**TO: Bankruptcy Bar**

**FROM: Diane L. Zech, Clerk**

**DATE: November 8, 2004**

The United States Bankruptcy Court for the District of Nebraska is seeking your comments concerning the proposed revisions to the Court's Local Rules. Most of the Local Rule revisions stem from the incorporation of applicable General Orders or Administrative Procedures. The major revisions/additions involve the following rules:

Neb. R. Bankr. P. 3015-1	Chapter 12 - General
Neb. R. Bankr. P. 3015-2	Chapter 13 - Amendments to Plans
Neb. R. Bankr. P. 3015-3	Chapter 13 Confirmations
Neb. R. Bankr. P. 3020-2	Formula for Determining Value
Neb. R. Bankr. P. 4002-2	Address of Debtor
Neb. R. Bankr. P. 5005-2	Documents filed Under Seal
Neb. R. Bankr. P. 7026-1	Discovery Motions
Neb. R. Bankr. P. 7067-1	Registry Funds; Deposits in the Court
Neb. R. Bankr. P. 9011-1	Signatures

**New/Revised Appendices:**

Appendix C - Assignment of Cases per Rule 1073-1

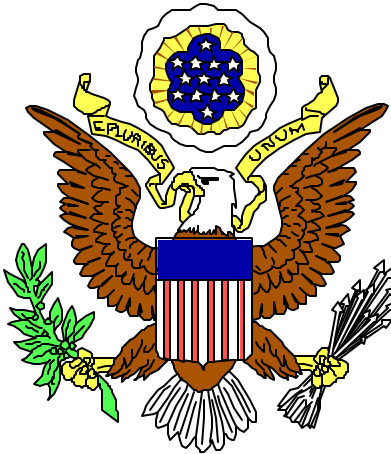
\* Cass county will be assigned to the Omaha Office and Stanton county will be assigned to the Lincoln Office

Appendix G	- Chapter 13 Plan
Appendix L	- Request to Discontinue Service
Appendix M	- Certificate of Service
Appendix N	- Docketing Standards for Evidence
Appendix O	- Chapter 13 Fee Requests

The proposed local rules are available online at the court's website, [www.neb.uscourts.gov](http://www.neb.uscourts.gov), under Resources>>Local Rules>>DRAFT Revised Local Rules, Important News and What's New or in hard copy at the clerk's office.

Please send comments and suggestions **by November 29, 2004**, to:

Diane Zech  
Clerk of Court  
United States Bankruptcy Court  
District of Nebraska  
111 South 18<sup>th</sup> Plaza, Suite 1125  
Omaha, NE 68102  
telephone number (402) 661-7447



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NEBRASKA RULES OF BANKRUPTCY PROCEDURE

Adopted by the United States District Court  
for the District of Nebraska

**INSERT NEW DATE**

# NEBRASKA RULES OF BANKRUPTCY PROCEDURE

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**RULE 1001-1. SCOPE OF LOCAL RULES, FORMS, APPENDICES  
AND DEFINITIONS**

**A. Citation.** These Local Rules shall be formally referred to as Nebraska Rules of Bankruptcy Procedure and cited as Neb. R. Bankr. P. A rule may also be referred to as "Local Rule \_\_\_\_."

**B. Application.**

1. The rules shall apply to all bankruptcy cases and adversary proceedings. The Bankruptcy Judge may, by order, direct that specific Local District Court Rules are applicable in a particular case.

2. The rules shall apply in all cases filed under all chapters unless specifically excluded.

**C. District Court Rules.** The Nebraska General Rules of the United States District Court for the District of Nebraska concerning the following matters are specifically made applicable in bankruptcy cases and adversary proceedings and can be found at [www.ned.uscourts.gov](http://www.ned.uscourts.gov).

1. Admission, discipline of attorneys, clinical legal education for law students, non-resident attorneys and appearance of counsel. NERGenR 1.7 and 1.8. Because of length, these are not included in the Appendix.

2. Withdrawal of Reference. NERGenR 1.5.

**D. Forms.** The Bankruptcy Court may adopt suggested forms for use in Nebraska cases. Current forms are available from the U.S. Bankruptcy Court website at [www.neb.uscourts.gov](http://www.neb.uscourts.gov) or at the Clerk's office.

**E. Appendices.** The appendices attached to the Local Rules are for information only and are not adopted as part of the Local Rules and may be modified or deleted from time to time by order of the judges of the Bankruptcy Court.

**F. Definitions.**

1. "Bankruptcy Code" or "Code" means title 11 of the United States Code.

2. "Clerk" without further description shall mean the Clerk of the Bankruptcy Court or any of his or her deputies.

3. "Counsel" or "attorney" includes, if appropriate, a pro se party.

4. "Court" shall mean "judge" unless by its context it is determined to mean the judges of the United States Bankruptcy Court for the District of Nebraska.

5. "Debtor." When any act is required by these rules to be performed by a debtor or when it is necessary to compel attendance of a debtor for examination and the debtor is not a natural person: (A) if the debtor is a corporation, "debtor" includes, if designated by the Court, any or all of its officers, members of its board of directors or trustees or of a similar controlling body, a controlling stockholder or member, or any other person in control; (B) if the debtor is a partnership, "debtor" includes any or all of its general partners or, if designated by the Court, any other person in control.

6. "Electronic Filing" or "electronically file" shall mean uploading a pleading or document directly from a registered attorney's computer, using the Court's Internet-based System to file said pleading or document in the case file. Electronic filing shall also include any uploading to the System done by the Clerk's Office of documents submitted to the Court in paper format or as .pdf files on a 3.5" disk or CD. Sending a document or pleading to the Court via e-mail (electronic mail) or facsimile transmission (fax) is not electronic filing.

7. "Electronic Signature." The "s/Jane Doe" constitutes the signature of said party on any electronically filed pleading (i.e., affidavits, petition, schedules). The attorney of record or the party originating the document shall maintain the original signed document. Upon request, the original document must be provided to other parties or the Court for review.

8. "File Size." When scanning documents to be subsequently filed electronically, filing parties shall make certain their document(s) are no larger than 40 pages or 2MB, whichever is larger. All documents larger than 40 pages or 2MB shall be separated and scanned in portions not to exceed the 40 page limit. The document will be entered into the System as one pleading with attachments.

9. "Filing" or "file" shall mean "electronic filing" or "electronically file" unless otherwise specified.

10. "Judge" without further description shall mean a bankruptcy judge assigned or designated for service in the District of Nebraska.

11. "Judgment" means any appealable order.

12. ".Pdf Documents." A document created with almost

any word-processing program can be converted to .pdf. The .pdf program in effect takes a picture of the original document and allows anyone to open the converted document across a broad range of hardware and software, with layout, format, links, and images intact.

13. "System" means the Court's Electronic Filing System accessed through attorney passwords and logins via the internet.

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**PART I. COMMENCEMENT OF CASE; PROCEEDINGS RELATING TO  
PETITION AND ORDER FOR RELIEF**

**RULE 1002-1. PETITION - GENERAL**

**A. Specific Requirements of Content of Voluntary  
Petitions.**

1. The petition shall conform to the Official Bankruptcy Forms.

2. If the debtor is a corporation, attached to each copy of the petition shall be a certified copy of the corporation action authorizing the filing of the petition.

3. The petition shall include the tax identification numbers used by a corporation, a partnership, an individual, and by a sole proprietorship, if different from the individual tax identification number.

**RULE 1005-1. CAPTION OF PETITION**

**A. Caption of Petition.** The caption of a petition commencing a case under the Code shall contain the name of the Court, the title of the case, and the docket number. The title of the case shall include the name, last four digits of the social security number and employer's tax identification number of the debtor and all other names used by the debtor within six years before filing the petition. If the petition is not filed by the debtor, it shall include all names used by the debtor which are known to petitioners.

**B. Social Security numbers.** If an individual's social security number is relevant in a pleading, only the last four digits of that number should be used. New Official Form 21, Statement of Social Security Number, should contain the full Social Security Number and should be processed as prescribed by the Court.

**RULE 1007-1. LISTS, SCHEDULES & STATEMENTS**

**A. Schedules of Liabilities.** In each schedule of creditors, the creditors' names shall be listed alphabetically. If a tax obligation is listed, it shall include the date the tax obligation was incurred or assessed and the type of tax (e.g., personal income tax - Form 1040; payroll tax - Form 940 and 941; 100 percent penalty, etc.).

## **B. Service**

1. In Chapter 7, 12 and 13 cases, counsel for the debtor(s) must serve by mail, not fax, a paper copy of the petition, schedules, statement of affairs and Statement of Social Security Number (Official Form 21) on the appointed trustee within five days of filing or three business days prior to the § 341 meeting. This applies to all trustees except Kathleen Laughlin (Chapter 13 trustee) and Richard Myers (Chapter 7 trustee). If a paper copy of the schedules is not provided to the trustee within the required time period, the trustee may continue the §341 meeting of creditors and require the debtors to reappear at the next scheduled § 341 meeting date.

2. Amendments to petition, schedules and statement of affairs must be appropriately served on the trustee. Counsel for the debtor shall serve all affected entities with a copy of the amendment and the original § 341 notice and electronically file a certificate of service.

3. The Clerk's Office shall not maintain a paper Court file in any case filed after January 2, 2002. The official Court record shall be an electronic file maintained on the Court's server.

**C. Extension of Time to File Schedules.** No hearing shall be required on motions to extend time to file lists of creditors and equity security holders, or to file schedules and statement of affairs unless requested by the United States Trustee within 7 days of service. Requests for extension of time should set forth whether or not a previous request for extension has been granted.

## **D. Privacy Rules.**

1. Redacted Documents. To comply with the policy of the Judicial Conference of the United States and the E-Government Act of 2002, effective December 1, 2003, filing parties shall omit or, where inclusion is necessary, partially redact the following personal data identifiers from all pleadings, documents, and exhibits, whether filed electronically or in paper, unless otherwise ordered by the Court or required statute, the Federal Rules of Bankruptcy Procedure or the Official Bankruptcy Forms.

- a. Minors' names. If the involvement of a minor child must be mentioned, only the minor's initials should be used;

- b. Financial account numbers. If the financial account numbers are relevant, only the last four numbers of the account number should be used;
- c. Social Security numbers. If an individual's Social Security Number is relevant in a pleading, only the last four digits of that number should be used. New Official Form 21, Statement of Social Security Number, should contain the full Social Security Number and should be processed as prescribed by the Court.
- d. Dates of birth. If an individual's date of birth must be included in a pleading, only the year should be used;
- e. Other data as permitted by order of the Court.

2. The responsibility for redacting personal data identifiers rests solely with counsel and the parties. The Clerk's Office will not review documents for compliance with this rule or redact documents, whether filed electronically or on paper. In addition, the Court will not go back and redact documents filed before December 1, 2003.

3. When a new case is filed (electronically or through case upload), the ECF system will allow for the manual input of the full Social Security Number, thereby negating the need for the original Statement of Social Security Number (Official Form 21) to be filed with the Court. The attorney of record or the party originating the statement shall maintain the original signed statement for all bankruptcy cases at least one year after the case is closed. A copy of the Statement must be provided to the appointed trustee except for trustees Rick Meyers (Chapter 7 trustee) and Kathy Laughlin (Chapter 13 trustee) where a copy of the statement must be provided at the § 341 meeting.

4. All new cases filed in paper format, on CD/diskette or filed Pro Se must be accompanied by a separate Statement of Social Security Number (Official Form 21) containing the full Social Security Number. Failure to provide the required Statement of Social Security Number may result in a show cause hearing in front of the presiding judge. A copy of the Statement must be provided to the appointed trustee except for trustees Rick Myers (Chapter 7 trustee) and Kathy Laughlin (Chapter 13 trustee) where a copy of the statement must be provided at the § 341 meeting.

5. Copies of all amended Statements of Social Security Number (Official Form 21) should be submitted to the Court in paper format. The filing attorney shall maintain the original signed document for all bankruptcy cases at least one year after the case is closed.

6. Any party wishing to file a document containing any of the personal data identifiers specified above may, upon order of the Court, file an unredacted document under seal or conventionally file a reference list under seal. See Neb. R. Bankr. P. 5005-2. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its(their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete identifier. The reference list must be filed under seal, and may be amended as of right. It shall be retained by the Court as part of the record.

**RULE 1007-2. MAILING - LIST OR MATRIX**

**A. Filing Matrix.**

1. Each voluntary petition shall be accompanied by a list of creditors, lessors and interest holders set forth in alphabetical order (the "Matrix"). The Matrix shall include the mailing address and ZIP Code for each creditor and shall be in the format approved by the Clerk.

2. In all Chapter 7, 12 and 13 cases, the Internal Revenue Service shall be listed only if the debtor believes a tax is owing. In all Chapter 11 cases, whether or not the Internal Revenue Service is known to be a creditor, the Internal Revenue Service shall be listed on the Matrix at the address shown on the Appendix "B" to these Local Rules.

3. In all cases where the Nebraska Department of Revenue is known to be a creditor and in all Chapter 11 cases, whether or not the Nebraska Department of Revenue is known to be a creditor, the Nebraska Department of Revenue shall be listed on the Matrix at the address shown on the Appendix "B" to these Local Rules.

4. In all cases, the county attorney and county treasurer from the county in which the debtor resides shall be listed on the Matrix.

**RULE 1017-1. CONVERSION - REQUEST FOR/NOTICE OF**

**A. Conversions Upon Debtor's First Request.** Unless previously converted, a debtor's motion to convert a case under 11 U.S.C. § 706, 1208 or 1307 may be ruled upon without notice or hearing. Service of an order converting a case to another chapter shall be given by the Clerk to all creditors, interested parties and to the United States Trustee.

**RULE 1017-2. DISMISSAL OR SUSPENSION - CASE OR PROCEEDINGS**

**A. Voluntary Dismissal.** In addition to stating with particularity the grounds for relief, all motions to dismiss shall comply with Neb. R. Bankr. P. 9013-1 and shall fully disclose any existing arrangement or agreement between the debtor and creditors or any person or entity in connection with the motion for dismissal. The Court may condition dismissal upon payment of fees, including quarterly fees due the Office of the United States Trustee, as warranted. After notice and a hearing, the Court may enter judgment for the fees against the debtor and debtor-in-possession upon filing of an appropriate declaration or affidavit by the Office of the United States Trustee.

**B. Motions to Alter, Amend, Reinstate or Reconsider Dismissal of Chapter 13 Cases.** A timely filed motion to alter, amend, reinstate or reconsider dismissal of a Chapter 13 case which was dismissed for failure of the debtor to make payment shall comply with Neb. R. Bankr. P. 9013-1 and state with particularity:

1. The circumstances which explain why the required payments were not made;

2. The circumstances which have changed so as to permit the debtor to make future payments; and

3. The date and the manner of the future payments the debtor proposes to make to the Chapter 13 Standing Trustee.

If the future payments are to be made by payroll deduction, the motion shall state the name and address of the employer and the pay period of the debtor.

**RULE 1072-1. PLACES OF HOLDING COURT**

The Clerk and assigned judge shall determine the location of hearings in a particular case.

**RULE 1073-1. ASSIGNMENT OF CASES**

**A. Assignment.** The Bankruptcy Judges will, from time to time, adopt a general policy concerning the assignment of cases for implementation by the Clerk. The general policy will be varied on a case-by-case basis at the judges' discretion based on a number of factors which include the relative workload of judges, conflict of interests, and recusals. Upon the filing of a petition, the Clerk shall assign the case to a particular judge. Appendix "C" sets forth the general policy concerning the assignment of cases.

**B. Subsequent Filings.** After the Court's assignment of cases, all subsequent paper pleadings or motions shall be filed in the office of the Clerk in the assigned location.

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**PART II. OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS;  
EXAMINATIONS; ELECTIONS; ATTORNEYS AND  
ACCOUNTANTS**

**RULE 2002-1. NOTICE TO CREDITORS & OTHER INTERESTED  
PARTIES**

**A. Notice in Chapter 7.** In all Chapter 7 cases, after 90 days following the first date set for the meeting of creditors pursuant to § 341 of the Code, all notices required by subdivision (a) of Federal Rule of Bankruptcy Procedure 2002, except clause (4) thereof, shall be served on creditors whose claims have been filed and creditors, if any, who are still permitted to file claims by reason of an extension granted under Federal Rule of Bankruptcy Procedure 3002©), except that notice shall also be served on any entity which has filed with the Court a request for notices.

1. Appearance at § 341 Meetings. Debtors are required by the Bankruptcy Code and Federal Rules of Bankruptcy Procedure to attend a § 341 first meeting of creditors. The United States Trustee's Office will schedule a continued § 341 meeting if the debtor fails to appear at the originally scheduled meeting. If the debtor fails to appear at the continued § 341 meeting, the United States Trustee's Office may notify the Clerk of such fact and the case will be dismissed without further notice or hearing.

2. Notice of Continued § 341 Meetings. If the § 341 first meeting is continued due to non-appearance by the debtor or debtor's counsel, the Chapter 7 Trustee will announce the date and time of the continued meeting at the originally scheduled § 341 first meeting. No further written notice will be provided by the Clerk or the United States Trustee's Office, except through the CM/ECF system, when applicable. It is the responsibility of debtor's counsel to contact the United States Trustee's Office to verify the date and time of the continued meeting and inform the debtor(s) of the obligation to attend.

**B. Notice to Committees.** Notice shall be provided to committees in accordance with Federal Rule of Bankruptcy Procedure 2002(I). Pursuant to this Local Rule, the notices required by subdivisions (a)(2), (3) and (7) of Federal Rule of Bankruptcy Procedure 2002 shall be transmitted to the United States Trustee and shall be served on the committees elected pursuant to 11 U.S.C. § 705 or appointed pursuant to 11 U.S.C. § 1102 of the Code or to their authorized agents; to the creditors and equity security holders who serve on the trustee or debtor in possession and file a request that all notices be served; and to the holders of the ten (10) largest unsecured claims not otherwise provided notice under this Local Rule.

**C. Notice in Chapter 13.** Upon the filing of a Chapter 13 Petition, the Clerk shall schedule a "First Meeting of Creditors," as authorized by 11 U.S.C. § 341 and shall provide notice of the date and time of such meeting to the Chapter 13 Trustee, the debtor, counsel for the debtor and all parties listed on the matrix filed with the Petition. The notice shall provide that, if a Chapter 13 Plan is filed with the Petition, the initial objections to confirmation shall be filed no later than fourteen calendar days after the date set for the Meeting of Creditors.

1. Appearance at § 341 Meetings. Debtors are required by the Bankruptcy Code and Federal Rules of Bankruptcy Procedure to attend a § 341 first meeting of creditors. The Chapter 13 Trustee, with authorization from the United States Trustee, will schedule a continued § 341 meeting if the debtor fails to appear at the originally scheduled meeting. No further notice will be provided by the Clerk or the Chapter 13 Trustee or the United States Trustee's office except through the CM/ECF system, when applicable. It is the responsibility of debtor's counsel to verify the date and time of the continued meeting and inform the debtors of the obligation to attend.

2. Dismissal for Failure to Appear. If the debtor fails to appear at the continued § 341 meeting, the Chapter 13 Trustee, with authorization from the United States Trustee, may notify the Clerk and the case will be dismissed without further notice or hearing.

**D. Notice and Reports to Nebraska Department of Revenue.**

1. In all Chapter 11 cases, whether or not the Nebraska Department of Revenue is known to be a creditor, the Nebraska Department of Revenue shall receive all notices pursuant to Federal Rule of Bankruptcy Procedure 2002(a), (b) and (f) at the address listed on Appendix "B" to these Local Rules.

2. A debtor-in-possession or a trustee operating a business shall timely submit to the Nebraska Department of Revenue, at the address listed on Appendix "B" to these local rules, a copy of each report submitted to the U.S. Trustee. See Neb. R. Bankr. P. 4002-1.C. for state tax returns.

**E. Service.**

1. Whenever a pleading or other paper is filed electronically in accordance with these procedures, the System



shall generate a "Notice of Electronic Filing" to the filing party and any other party who is a registered user and has requested electronic notice in that case.

- a. If the recipient is a registered participant in the System, the Clerk's e-mailing of the "Notice of Electronic Filing" shall be the equivalent of service of the pleading or other paper by first class mail, postage prepaid.
- b. Service of the "Notice of Electronic Filing" on a party who is not a registered participant in the System may be accomplished by e-mail, subject to the additional service requirements of Neb. R. Bankr. P. 2002-1(E)(3).

2. A certificate of service on all parties entitled to service or notice is still required when a party files a document electronically. The certificate must state the manner in which service or notice was accomplished on each party so entitled. Sample language for a "Certificate of Service" is attached to these procedures as Appendix "M."

3. A party who is not a registered participant of the System is entitled to a paper copy of any electronically filed pleading or paper. The filing party must therefore provide the non-registered party with the pleading or paper according to the Federal Rules of Bankruptcy Procedure. When mailing paper copies of documents that have been electronically filed, the filing party may include the "Notice of Electronic Filing" to provide the recipient with proof of the filing.

4. A registered participant in the System may request the discontinuation of service by electronic notice in a particular case. Upon the Court's receipt of said request, the filing party will be administratively terminated in said case for the purpose of receiving notices. The filing party will no longer receive a "Notice of Electronic Filing" from the System nor will they receive notice by first class mail. Sample language for a "Request to Discontinue Service of Notices" is attached to these procedures as Appendix "N."

#### **RULE 2002-2. NOTICES TO UNITED STATES OR FEDERAL AGENCY**

**A. Notice to the United States.** All notices required to be served on the United States by the Federal Rules of Civil Procedure, Federal Rules of Bankruptcy Procedure, Nebraska Rules of Bankruptcy Procedure, or United States District Court

Local Rules shall, in addition to any other requirements therein stated, clearly designate, when known, the department, agency or instrumentality of the United States through which the debtor became indebted and shall be served at the address listed in Appendix "B" to these Local Rules. In all such cases, notice shall also be served on the United States Attorney's Office located in the same city in which the petition for relief has been filed.

**B. U.S. Attorney General.** If service upon the U.S. Attorney General is required under applicable statute or rule, the place of service shall be at the address or addresses listed in Appendix "B" to these Local Rules.

**C. Notice or Reports to Internal Revenue Service.** A debtor-in-possession or a trustee operating a business shall timely submit to the District Director of the Internal Revenue Service, at the address listed on Appendix "B" to these Local Rules, a copy of each report submitted to the United States Trustee. See Neb. R. Bankr. P. 4002-1.A. for federal tax returns.

#### **RULE 2002-3. UNITED STATES AS A CREDITOR OR PARTY**

**A. Departments, Agencies, and Instrumentalities of the United States.** If one or more of the following departments, agencies or instrumentalities of the United States is a creditor, the schedule of liabilities and Matrix shall list such department(s) or agency(ies) at the address indicated on Appendix "B" to these Local Rules. In the event that one of the following departments or agencies changes its address, such department or agency must notify the Clerk of such change in address and make a specific request that the Appendix be changed.

1. DEPARTMENT OF AGRICULTURE (for Commodity Credit Corporation and Farmers Home Administration also list the Directors as set forth in Appendix "B")

a. ASCS/Commodity Credit Corporation (CCC)

b. Farmers Home Administration

2. DEPARTMENT OF EDUCATION

3. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

4. DEPARTMENT OF HOUSING AND URBAN (HUD)

5. INTERNAL REVENUE SERVICE (IRS)

6. UNITED POSTAL SERVICE
7. SMALL BUSINESS ADMINISTRATION (SBA)
8. VETERANS ADMINISTRATION (VA)

**B. United States Attorney's Office.** In all cases in which any department, agency or instrumentality of the United States is a creditor, the schedule of creditors and Matrix shall also list the United States Attorney's office located in the city in which the petition for relief has been filed, at the address listed in Appendix "B" to these Local Rules.

**RULE 2003-1. MEETING OF CREDITORS & EQUITY SECURITY HOLDERS**

**A. Location of § 341 Meeting.** The United States Trustee shall determine the location of § 341 first meetings of creditors. The location is determined by the county of the residence of the debtor. Appendix "D" sets forth the locations of the § 341 meetings for Chapter 7 cases. Appendix "E" sets forth the locations of the § 341 meetings for Chapter 11, 12 and 13 cases.

**B. Change in Location of § 341 Meeting.** As a general policy, the location of the § 341 meeting will not be changed. In exceptional circumstances, the United States Trustee will consider requests for changes in location of the meeting.

**RULE 2014-1. EMPLOYMENT OF PROFESSIONALS**

**A. Definition.** The term "professionals" shall include, but is not limited to, attorneys, accountants, appraisers, auctioneers, investigators, consultants, investment bankers, real estate and other brokers and agents and other similar persons or entities retained to perform services in connection with a bankruptcy case.

**B. Applications to Retain Professionals.** No hearing on the application shall be required unless requested by the United States Trustee.

**C. Debtor's Counsel.** Unless debtor's counsel is paid from property of the bankruptcy estate, counsel for the debtor in a Chapter 7 case may be retained by the debtor without Court approval. Every attorney for a debtor must disclose fees, regardless of source, pursuant to Federal Rule of Bankruptcy Procedure 2016(b).

**RULE 2015-1. TRUSTEES - GENERAL**

**A. Trustee's Duty to Pay Costs.** Prior to the closing of the case, the standing trustee, the panel trustee, or debtor-in-possession, if no trustee is appointed, shall pay from estate property all fees and other costs incurred by the Clerk.

**RULE 2016-1. COMPENSATION OF PROFESSIONALS**

**A. Fee Applications.**

1. Mandatory Application. Applications for allowance of compensation for services and reimbursement of expenses shall be filed when Court approval of compensation is required under 11 U.S.C. § 330. Except in Chapter 7 cases, a fee application must also be filed if debtor's attorney received a prepetition bankruptcy retainer or payment from property of the debtor, or from property of a person or entity other than the debtor. In the case of a prepetition retainer or payment, and except in Chapter 7 cases, the fee application shall be filed even if no further compensation is sought in connection with the bankruptcy case.

2. Time to file. Professionals seeking compensation and reimbursement of expenses from property of the estate shall file an application for allowance of fees and expenses. All applications by professionals for compensation and reimbursement of expenses from property of the estate shall be filed with the Clerk before the case is closed. If a trustee has been appointed in the case, the trustee shall give all professionals, retained by debtor with Court approval, ten (10) days notice of the trustee's intention to file the final report and account so as to provide such professional with an opportunity to file an application before the notice of hearing on the trustee's final report and account. In any case in which interim compensation has been approved, the professional for whom interim compensation was approved must file a final fee application.

3. Contents. Unless otherwise ordered, a time summary exhibit, constructed from contemporaneously kept time records, shall be attached to all fee applications. The exhibit shall state the dates, the number of hours spent and estimated to be spent in the future to tenths of an hour on particular tasks, a concise statement of the task, the identity of the individual performing the work, the relationship of the service to the estate, and the value thereof. If the application seeks compensation for future services, the exhibit

shall also state an estimate of the number of hours to be expended in future services. All fee applications shall disclose all fees paid to the applicant, including prepetition payments for services rendered or to be rendered in connection with the case. The description of legal services and expenses shall also include services and expenses to be compensated from prepetition retainer, if any.

4. Chapter 13 Fee Applications. A fee application of debtor's counsel seeking less than an amount established from time to time by the Bankruptcy Judges is not required to set forth all of the information listed in subsection 3 above, and shall be sufficient if the application states the total number of hours expended on services, with a general description of the services rendered. A fee application in the form set forth in Appendix "F" shall be sufficient.

- a. Attorney Fees. In Chapter 13 cases, counsel for the debtor, without filing a fee application, may include in the Chapter 13 Plan a request for the maximum allowance of fees and expenses referenced in Appendix "O". The amount of fees and anticipated expenses specified in the Plan shall be deemed allowed upon confirmation of the Plan.

**B. Disclosure of Compensation.** Every professional, whether or not the professional applies for compensation, shall file with the Court within 15 days after employment, a Statement of Compensation paid or agreed to be paid, if such payment or agreement was made after one year before the date of the filing of the petition. The Statement of Compensation shall disclose the source of such compensation paid or agreed to be paid. A supplemental Statement shall be filed within 15 days after receipt of any payment not previously disclosed.

**C. Compliance with Neb. R. Bankr. P. 9013-1.** Applications by professionals for compensation and reimbursement of expenses shall be filed and served pursuant to the provisions of Neb. R. Bankr. P. 9013-1.

**D. Order.** If no resistance is filed to applications for compensation and reimbursement of expenses, the Court will enter an order.

**RULE 2017-1. EXAMINATION OF DEBTOR'S TRANSACTIONS WITH PROFESSIONALS**

**A. Payment or Transfer to Professional Before Commencement of Case.** On motion by any party in interest or on the Court's own initiative, the Court, after notice and a hearing, may determine whether any direct or indirect payment of money or any transfer of property within one year before the date of the filing of the petition to a professional for services rendered or to be rendered is excessive.

**B. Payment or Transfer to Professional After Commencement of Case.** On motion by any party in interest or on the Court's own initiative, the Court, after notice and a hearing, may determine whether any direct or indirect payment of money, or any transfer of property, or any agreement thereof, to a professional after commencement of the case is excessive.

**C. Excessive Payments.** If the Court determines a payment to a professional is excessive, the Court may order the return of the excessive payment to the estate or the entity that made such payment.

**RULE 2080-1. CHAPTER 9**

**A. Notices, Claims Bar Date, List of Creditors, Fees.**

1. Notices.

- a. After the filing of a petition under Chapter 9 of the Bankruptcy Code, the Clerk's office shall serve on the attorney for the debtor, "Notice of Commencement of Case Under Chapter 9, Notice of Automatic Stay, Notice of Time for Filing Resistances to the Petition, Order for Relief, Notice of Time for Filing Proofs of Claims and Related Orders Combined with Notice Thereof" (the "Chapter 9 Notice"). The Chapter 9 Notice shall conform to Neb. Official Form 9-1 which is set forth in Appendix "I." The debtor shall immediately serve a copy of the Chapter 9 Notice on all parties in interest. The debtor shall file with the Court proof of service of the Chapter 9 Notice at least three business days before the last date for filing of resistance to the petition.
- b. All notices required by subdivisions (a)(2), (3) and (7) of Federal Rule of Bankruptcy Procedure

2002 shall be served on the committee(s) or their authorized agents and to the creditors who file with the Court a request that all notices be mailed to them.

2. Claims Bar Date. If the debtor applies for a claims bar date in its petition and such application is granted, the established claims bar date shall be included in the Chapter 9 Notice.

3. List of Creditors. The list of creditors required by 11 U.S.C. § 924 shall be filed within 15 days of the petition date unless otherwise ordered. The list shall include the name and address of the creditor, the amount of the claim, and whether the claim is disputed, contingent, or unliquidated.

4. Fees. To enable the Court to determine administrative expenses allowable under 11 U.S.C. § 503(b) and priorities under 11 U.S.C. § 507(a) and reasonableness of such expenses under 11 U.S.C. § 943(b)(3), the debtor shall disclose a detailed good faith estimate of such fees and expenses in the disclosure statement and the plan.

#### **B. Publications.**

1. Unless otherwise requested by the debtor in the petition and ordered by the Court after notice and hearing, all publications required pursuant to 11 U.S.C. § 923 shall be made in the *Wall Street Journal* and the *Omaha World Herald*. The debtor shall file with the Court proofs of publication not later than 19 days after the last publication.

2. After a petition is filed, the debtor shall immediately cause to be published the notice of the commencement of the case and notice of the order of relief as required by 11 U.S.C. § 923. The last date of the publication of such notice shall be not less than 15 days prior to the last day to file resistances to the petition.

**C. Resistances to Petition and Order for Relief.** Resistances to the petition may be filed by a party in interest not later than 45 days after the service of the Chapter 9 Notice to all creditors, special taxpayers and other parties in interest. Resistances shall be filed with the Clerk and served on the attorney for the debtor. All resistances shall state the facts and legal authorities in support of such resistance. If a timely resistance to the petition is filed with the Court, the Court will schedule a hearing and order the resisting party to give proper notice to all parties in interest of the hearing on the resistance.

**D. Plan of Adjustment and Disclosure Statement.**

1. The Plan of Adjustment and Disclosure Statement shall be filed not later than 90 days after the creditors' committee is appointed. The Court may extend such time for good cause shown.

2. The requirements of Neb. R. Bankr. P. 9013-1 apply to the Disclosure Statement, except with regard to pre-approved plans. See Neb. R. Bankr. P. 2080-1.F.

**E. Confirmation.** At the hearing on confirmation of the plan, the debtor shall submit to the Court an order which complies with 11 U.S.C. §§ 943 and 1129 and shall submit a summary of ballots.

**F. Pre-Approved Plans.** If the debtor is proposing a Plan of Adjustment which was accepted by more than two-thirds in amount and one-half in number of the creditors prior to the filing of the petition, then debtor's petition shall also include a request for consolidated hearing to consider resistances to the petition, resistances to the adequacy of the disclosure made pursuant to 11 U.S.C. § 1126(b)(2) and resistances to the confirmation of the plan. If the request is approved, the notice and service requirements of Neb. R. Bankr. P. 9013-1 apply.

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**PART III. CLAIMS AND DISTRIBUTION TO CREDITORS  
AND EQUITY INTEREST HOLDERS; PLANS**

**RULE 3002-1. FILING PROOF OF CLAIM.**

**A. General.** The original proof of claim with attachments shall be filed with the Clerk in all chapters.

**B. Chapter 13 & Chapter 12.** A proof of claim filed in a Chapter 13 or 12 case shall be accompanied by evidence that any security interest claimed has been perfected. See Federal Rule of Bankruptcy Procedure 3001(d). All creditors, including secured creditors, shall file proofs of claim in Chapter 13 and Chapter 12 proceedings within the time limit specified in Federal Rule of Bankruptcy Procedure 3002(c). The claimant shall mail a paper copy of the claim and exhibits to the Chapter 12 and counsel for the Debtor.

**RULE 3007-1. CLAIMS - OBJECTIONS**

**A. Content.**

1. The caption of all objections to claims shall identify the claimant (e.g., Objection to Claim of XYZ Co.) and claim number. The objecting party has the burden of overcoming the presumption afforded by Federal Rule of Bankruptcy Procedure 3001(f). If the objecting party relies on facts not established by the proof of claim, an affidavit or declaration shall be filed and served with the objection. Objections to claims shall be filed and served in compliance with Neb. R. Bankr. P. 9013-1 and shall state with particularity:

- a. The proof of claim by filing date, creditor and amount, or in some other specific manner (Note: reference to a proof of claim number without the claimant's name will not be deemed sufficient notice);
- b. The specific ground(s) upon which the objection is made; and
- c. The proposed treatment of the claim with a specific dollar amount.

**B. Transfer or assignment of claim.** The party filer must serve all transfers or assignments of claim on the Chapter 12 or Chapter 13 Trustee, the attorney for the debtor or debtor in possession, and attorney for each official committee, if any. The Clerk will comply with Federal Rule of Bankruptcy Procedure 3001(E)(2). If no timely objection is filed by alleged

transferor, the transferee shall be substituted for the transferor without further notice or hearing.

**C. Chapter 13 Procedures.**

1. Pursuant to Federal Rule of Bankruptcy Procedure 3007, the Chapter 13 Trustee may object to any claim filed. If the trustee does not object to the claim, the Trustee will then file a notice concerning allowance of such claim after the expiration of ninety (90) days from and after the first date set for the meeting of creditors, pursuant to 11 U.S.C. § 341(a). Within five (5) days from the date of the notice concerning allowance of claims, the Trustee shall serve the notice upon the debtor and the debtor's attorney. Within thirty (30) days from the date of the notice, the debtor may object to the allowance of a claim as set forth in the Trustee's notice. If the debtor does not file an objection to Trustee's notice to allow claims within the time period required, the claims shall be deemed allowed as provided in the notice.

2. An objection to the allowance of claim shall be filed and served upon the Chapter 13 Trustee, the claimant and counsel for the claimant pursuant to Neb. R. Bankr. P. 9013-1.

**D. Chapter 7 Procedures.**

1. A Chapter 7 Trustee may object to claims as part of the trustee's final report. The trustee will attach a report on claims to the final report, making recommendations as to the status of each claim.

2. An objection to the allowance of a claim and the trustee's final report shall be filed and served upon the Chapter 7 Trustee, claimant and counsel for the claimant pursuant to Neb. R. Bankr. P. 9013-1.

**E. Order.** If no resistance to the objection to claim is filed pursuant to Neb. R. Bankr. P. 9013-1, the Court will enter an order.

**RULE 3015-1. CHAPTER 12 - GENERAL**

**A. Plan Confirmation Requirements.** The Court shall confirm a plan only if the plan provides a basis for determining whether the requirements of 11 U.S.C. § 1225(a)(4) and (b) have been met. The requirements of § 1225(a)(4), 1225(a)(5)(b), and 1225(a)(6) shall be deemed not satisfied if a plan does not contain at least the following information:

1. A statement disclosing any change of the debtor's assets or liabilities from the date of filing of the petition through the date of the filing of the plan;

2. A cash-flow projection for the year immediately following confirmation of the proposed plan, including and identifying debtor's farm and non-farm income sources;

3. Assumptions and sources upon which the cash-flow projection is based, with historical or other data justifying such assumptions;

4. Farm income and expense information in a form comparable to Internal Revenue Code Schedule F forms filed by the debtor for the previous four (4) years plus a statement of debtor's non-farm income for the tax year preceding the filing of the motion;

5. Projected administrative expenses, including attorney fees;

6. A plan summary indicating the dates, amounts and payees of all amounts to be paid under the plan as provided by the Chapter 12 trustee;

7. If the plan proposes the sale of assets, a statement from a qualified tax accountant or attorney, setting forth the probable tax consequences thereof;

8. The basis of any valuation of property, including names of appraisers and dates of appraisal, if any;

9. A statement with detailed information, specifying the need for the plan payments to be made over a period longer than three years;

10. If the debtor proposes to retain secured property, a statement itemizing such property, the value of the property, and the basis of the valuation estimate;

11. A liquidation analysis sufficient to show compliance with 11 U.S.C. § 1225(a)(4), including a statement from a qualified tax accountant or attorney as to tax liabilities from liquidation, if any.

12. Whether a Chapter 12 plan provides for payments to be made to creditors directly or through the Chapter 12 Standing Trustee, the debtor shall pay to the Chapter 12 Standing Trustee a fee, for each year of the plan, which shall be the lesser of the percentage of all payments under the plan set by the Attorney General or his/her delegate from time to time pursuant to the requirements of 28 U.S.C. § 586(e), or the

dollar amount established by the Court. Chapter 12 standing trustee fees allowed are set forth in Appendix "J."

**B. Resistance to Plan.** If a resistance to the plan is filed, the case shall proceed pursuant to Neb. R. Bankr. P. 9013-1 and 9017-1.

**C. Confirmation Order.** If no objection is filed to the confirmation of plan, the plan will be confirmed only upon the electronic filing by the Chapter 12 Trustee of a "Consent to Confirmation." Such consent by the trustee is not required to be filed until the trustee receives a "Plan Summary" prepared by counsel for the debtor(s). Upon such filing by the trustee, the Court will enter an order.

**D. Reports.** The debtor shall serve on the Chapter 12 Trustee, within thirty (30) days following a request therefor, such periodic or annual reports as are necessary for the Trustee to comply with the provisions of 11 U.S.C. § 1231. The Trustee is authorized to generate forms on which periodic or other annual reports shall be made. Upon request, the Chapter 12 Trustee or the Debtor shall provide a copy of said reports to a party in interest. The Trustee may charge a reasonable copy fee for such reports.

**E. Discharge.** Upon the filing of a "Consent to Discharge" by the Chapter 12 Trustee, an order discharging the debtor(s) shall be entered. Such "consent" shall represent the trustee's notification to the Court that all matters precedent to the discharge have been completed and no objections have been filed.

#### **RULE 3015-2. CHAPTER 13 - AMENDMENTS TO PLANS**

A Chapter 13 Plan may not be withdrawn. Such Plan may be superseded by a subsequently-filed Amended Plan. If an Amended Plan is filed, pre-confirmation or post-confirmation, it must be served, with appropriate resistance date, pursuant to Neb. R. Bankr. P. 9013-1. No resistance date required under Neb. R. Bankr. P. 9013-1 shall be set for a date earlier than fourteen days after the conclusion of the "Meeting of Creditors". If an Amended Plan is filed while there are objections pending to a previously-filed Plan, whether or not a hearing has been scheduled, counsel for the debtor is required to notify those parties that have filed objections and notify the Courtroom Department that such an Amended Plan has been filed and that no further action will be taken on the previously-filed Plan.

**RULE 3015-3. CHAPTER 13 - CONFIRMATION**

**A. Form.** Chapter 13 Plans shall be in substantial conformity with Appendix "G." Chapter 13 Plans and Amended Plans are governed by Neb. R. Bankr. P. 9013-1 and are treated as a "Motion" under that rule.

**B. Timely Filing of Plan, Schedules and Statement of Affairs.** The Chapter 13 Plan, Schedules and Statement of Affairs must be filed within the time authorized by the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure. If these required documents are not timely filed, and no motion for an extension of time has been filed, the Chapter 13 Trustee, with authorization from the United States Trustee, may notify the Courtroom Department by e-mail or telephone and the case will be dismissed without further notice or hearing. Federal Rule of Bankruptcy Procedure 1007©), 3015(b), 11 U.S.C. § 1307(c)(9).

**C. Plan Filed with the Petition.** If the Plan is filed with the Petition, counsel for the debtor shall serve the Plan, with a resistance date of fourteen days after the conclusion of the "Meeting of Creditors." Counsel will not have the exact date of the "Meeting of Creditors" when the Petition and Plan are filed. Therefore, the notice may state, "Any resistance to the Plan must be filed no later than fourteen days after the conclusion of the "Meeting of Creditors."

**D. Plan Not Filed with the Petition.** If the Plan is not filed with the Petition, it shall be filed and served, with appropriate resistance date. No resistance date required under Neb. R. Bankr. P. 9013-1 shall be set for a date earlier than fourteen days after the conclusion of the "Meeting of Creditors".

**E. Confirmation.** If a timely resistance/objection is filed, a confirmation hearing shall be scheduled. Such confirmation hearing shall not be scheduled prior to the completion of the Meeting of Creditors. If no timely objection to confirmation is filed, the Clerk shall enter a text only order confirming the Plan as filed. If counsel for the debtor, after consultation with the Trustee or a creditor, desires a specific order with language agreed to by the parties, counsel shall notify the Courtroom Department, by e-mail or telephone, and request permission to submit such an order. All confirmation orders submitted shall be in conformity with Appendix "H." No confirmation order shall be entered before the Meeting of Creditors has been completed.

**F. Extension of Time to File Plan.** If an extension of time to file a Plan is granted and the Plan is not filed and noticed at least fifteen days prior to the first date set for the Meeting of Creditors, the Chapter 13 Trustee will notify the Clerk and the Meeting of Creditors will be continued. The Clerk will provide notice of the rescheduled meeting of creditors to the Chapter 13 Trustee and counsel for the Debtor. Notice of the rescheduled meeting of creditors shall be sent by counsel for the debtor to all creditors and parties requesting notice and a certificate of service shall be filed with the Court. If the Plan is not filed at least fifteen days prior to the second date set for the Meeting of Creditors, the Chapter 13 Trustee, with authorization from the United States Trustee, may notify the Clerk and the case will be dismissed without further notice or hearing.

**G. Tax Returns.** Debtors operating under a confirmed Plan must file post-petition tax returns, both state and federal, and pay post-petition taxes, both state and federal, on a timely basis. Debtor(s) shall comply with all requirements of Title 26 of the United States Code or applicable state tax code. Failure to file post-petition federal tax returns or failure to timely pay post-petition federal tax liabilities, in the manner prescribed by Title 26, or applicable state law, absent a showing of good cause, may be considered a material default of a confirmed Plan. All post-petition federal and state tax returns and all post-petition federal and state tax liabilities are included in this paragraph, including returns or liabilities for which Debtor(s) is/are responsible parties under 26 U.S.C. § 6672 or similar state laws.

**H. Suspension of Payment.** A motion to suspend payments to the Trustee, whether a Plan has been confirmed or not, shall be served on all parties in interest with the appropriate resistance date required by Neb. R. Bankr. P. 9013-1. If no resistance is filed, a text-only order granting the motion shall be entered on the electronic docketing system. The Court may use its discretion, but generally shall not approve more than two motions to suspend payments in a case.

**I. Employer Deduction.** To enhance the likelihood that a debtor will successfully complete a Plan, each Plan shall provide for an employer wage deduction and transmission to the Chapter 13 Trustee unless debtor, through counsel, files a detailed motion concerning the reason the debtor does not desire an employer deduction. Such motion shall be served upon the Trustee, with an appropriate resistance date required by Neb. R. Bankr. P. 9013-1. If the Trustee does not object, the motion will be granted by a text only order in the electronic docketing system. If the Trustee objects, a hearing shall be scheduled.

**J. Motion to Reinstate.** The Court may use its discretion, but generally no more than one motion to reinstate a dismissed case shall be granted. A motion to reinstate a dismissed case must include a detailed explanation concerning the cause of the dismissal and the proposed cure of such cause, must be filed no later than ten days after the dismissal order is entered and served on all parties in interest with the appropriate resistance date required by Neb. R. Bankr. P. 9013-1. Failure to file such motion within ten days from the date of the dismissal shall result in denial of the late-filed motion, without a hearing.

**K. Employment of Attorney for Debtor.** No application for appointment as attorney for a Chapter 13 debtor is required.

**RULE 3015-4. CHAPTER 13 - DISMISSAL OF CASE UPON PAYMENT DEFAULT.**

**A. Notice of Payment Default.** The Chapter 13 trustee may provide a debtor with Notice of Payment Default. The notice shall state the amount of the existing payment default and the date on which the next scheduled payment is due under the proposed plan or confirmed plan. The notice shall further state that under this Local Rule, the bankruptcy case will be dismissed upon the filing of a declaration by the Chapter 13 trustee unless, within 20 days after the date of the Notice of Payment Default, the debtor either cures the payment default and makes all payments due before expiration of the 20 day period or requests a hearing on the Notice of Payment Default. The Notice of Payment Default shall state the specific calendar date by which either the payment default must be cured or a hearing must be requested. The Chapter 13 trustee shall file the Notice of Payment Default and proof of service with the Clerk.

**B. Cure Default or Request Hearing.** Within 20 days of the mailing of a Notice of Payment Default, the debtor shall either:

1. Cure existing payment defaults, make all payments due before expiration of the 20 day period, and file proof of payment with the Clerk or

2. File a request with the Clerk that the Notice of Payment Default be set for hearing to permit the debtor to show good cause why the case should not be dismissed. If the request sets forth facts in support of specific allegations of good cause, the Clerk shall schedule the Notice of Payment Default for hearing upon affidavit evidence. The filing of a contested matter by the debtor, such as an amended or modified plan or motion to suspend payments, shall not constitute a request for hearing under this Local Rule and shall not, alone, preclude dismissal of the case. However, any such contested matter or amended plan, if a basis for allegations that the case should not be dismissed, shall be filed within the 20 day period in compliance with Neb. R. Bankr. P. 9013-1.

**C. Dismissal Upon Payment Default Upon Declaration of the Chapter 13 Trustee.** A Chapter 13 case shall be dismissed upon the filing of an affidavit by the Chapter 13 trustee establishing that Notice of Payment Default was provided to the debtor and debtor's counsel and that the debtor did not timely cure the payment default or request a hearing. The affidavit shall state that the Chapter 13 trustee has complied with this Local Rule, has served the Notice of Payment Default on the debtor and debtor's counsel, that the debtor has not timely cured the payment defaults or requested a hearing on the Notice of Default and that the case should be dismissed.

**RULE 3017-A. DISCLOSURE STATEMENT IN A SMALL BUSINESS CASE**

**A. Conditional Approval of Disclosure Statement.** If the debtor is a small business and has made a timely election to be a small business in a Chapter 11 case, the Court may, on motion and submission of proposed order of the plan proponent, conditionally approve a disclosure statement filed in accordance with Federal Rule of Bankruptcy Procedure 3016(b).

**RULE 3020-1. CONFIRMATION - CHAPTERS 9 AND 11**

**A. Uncontested Confirmation Orders.**

1. General. The Court will not confirm an uncontested plan unless the proponent of the plan submits the following:

- a. Declaration establishing that the plan was filed in good faith;
- b. Declaration establishing facts requisite to confirmation including a summary of balloting in Chapter 11 and 9 cases;
- c. Statement of counsel that the plan complies with applicable legal requirements for confirmation; and
- d. A proposed confirmation order.

2. Deemed Submitted. If the requirements of Neb. R. Bankr. P. 9013-1 and subsection A.1. of this rule are complied with, the Court shall consider such submission as meeting the requirement that a hearing be held and no further hearing shall be scheduled. The Court will then consider entry of the confirmation order without further notice.

**B. Payment of United States Trustee Fees in Chapter 11 Cases.** Unless otherwise ordered by the Court, all quarterly fees payable to the United States Trustee under 28 U.S.C. § 1930(a)(6) shall be paid on or before the effective date of the plan. All Chapter 11 plans



shall provide that the debtor will pay post-confirmation quarterly fees to the United States Trustee when due, as required by 28 U.S.C. § 1930(a)(6).

**RULE 3020-2. FORMULA FOR DETERMINING VALUE, AS OF THE EFFECTIVE DATE OF THE PLAN**

**A. Introduction.** Since the 1987 decision In the Matter of Wichmann, 77 B.R. 718 (Bankr. D. Neb. 1987), aff'd, Neb. Bkr. 88:303 (D. Neb. June 9, 1988), the interest rate (discount rate) used for determining value as of the effective date of a plan, for confirmation purposes, has been calculated by the "Wichmann" formula. The formula approach has been approved by the United States Supreme Court in Till v. SCS Credit Corp., 124 S. Ct. 1951, 158 L. Ed. 2d 787 (2004). It is now appropriate to include a standard formula in the local rules.

**B. Formula.** Whenever the court is required to determine the value, as of the effective date of a plan, of property to be distributed under a plan for any confirmation purposes, there is a presumption that the appropriate interest rate shall equal the national average of the prime rate as published in the Wall Street Journal on the last business day prior to the confirmation hearing, stated as a simple interest rate per annum, plus two percentage points. If the creditor desires a different interest rate, it must specifically object to confirmation based upon inadequacy of the interest rate and shall have the burden of proof by a preponderance of the evidence on the appropriate rate of interest, which issue shall be considered at the confirmation hearing. Consistent with the plan in Appendix "G", a Chapter 13 plan shall contain the specific interest rate proposed to be paid to a creditor.

**PART IV. THE DEBTOR: DUTIES AND BENEFITS**

**RULE 4001-1. AUTOMATIC STAY - RELIEF FROM**

**A. General.** A motion for relief from the automatic stay under 11 U.S.C. § 362 shall bear the caption "Motion for Relief From the Automatic Stay." Proceedings for relief from the automatic stay shall conform to the requirements of Federal Rule of Bankruptcy Procedure 4001(a)(1) as supplemented by this Local Rule. This procedure is different from, and not governed by, Neb. R. Bankr. P. 9013-1.

**B. Co-Debtor Stay.** Motions for relief pursuant to 11 U.S.C. §§ 1201 or 1301 shall contain the caption "Motion for Relief From Co-debtor Stay." The Motion shall specifically identify the co-debtor and the amount of the debt.

A motion for relief from the co-debtor stay of §§ 1201 and 1301 shall proceed pursuant to Neb. R. Bankr. P. 9013-1, provided that the 20-day notice period shall commence to run on the date the motion is filed with the Clerk.

**C. Hearing.** Upon the filing of a motion for relief from the automatic stay, the Clerk shall (1) set a date by which resistances must be filed; (2) schedule the matter for a final hearing to take place within 30 days in conformity with Federal Rule of Bankruptcy Procedure 4001; and (3) provide notice thereof to the moving party. The hearing may be treated as a preliminary hearing pursuant to 11 U.S.C. § 362(e) if the Court so elects. Unless otherwise ordered, the hearing will be upon affidavits or declarations and documentary evidence. Unless otherwise ordered, oral arguments will be scheduled in the Courtroom or by telephone conference.

**D. Notice.** The moving party shall serve notice of the motion for relief from the automatic stay in the manner prescribed in Federal Rule of Bankruptcy Procedure 7004 upon the debtor and debtor's attorney, if any, and those parties specifically designated in Federal Rule of Bankruptcy Procedure 4001(a)(1). In all cases in which a trustee has been appointed, the trustee or interim trustee shall be named and served as an additional responding party. The moving party shall immediately serve on all parties in interest the motion, proposed affidavit or declaration evidence or a detailed summary thereof, notice of the hearing date and the specific calendar date which any resistance with evidentiary summary must be filed and served and file with the Court a Certificate of Service at least five (5) days prior to the hearing. The notice shall state that Neb. R. Bankr. P. 4001-1 applies.

1. If no timely resistance is filed, the Court will rule on the motion for relief from stay without further notice or hearing.

2. If a timely resistance is filed and served, with evidentiary material or summary, a hearing will take place as scheduled pursuant to this Local Rule, and the moving party and resisting party shall appear at the hearing unless the matter has been resolved, in which case a party must appear and make a record unless excused pursuant to Neb. R. Bankr. P. 9019-1.

**E. Relief from Stay - Applicability of Neb. R. Bankr. P. 9013-1.** Motions for relief under 11 U.S.C. § 362(d) filed by a county respecting tax claims and motions to approve stipulations or agreements which provide for relief from 11 U.S.C. § 362 may proceed under Neb. R. Bankr. P. 9013-1 upon notice and opportunity to request hearing.

**F. Evidentiary Materials.** Exhibits for hearings shall be filed with the Clerk in accordance with the requirements of Neb. R. Bankr. P. 9017-1. Evidence offered at the hearing shall be presented by affidavit pursuant to Neb. R. Bankr. P. 9017-1. Affidavits and exhibits shall be electronically filed with the Clerk's office at least three (3) business days prior to the hearing.

**RULE 4002-1. DEBTOR - DUTIES**

**A. Federal Tax Returns.**

1. All non-delinquent original fiduciary returns (Form 1041), filed pursuant to 11 U.S.C. § 505(b), should be submitted to the IRS Service Center in Ogden, Utah, with a copy submitted to the Special Procedures Function address on Appendix "B," unless the taxpayer is specifically advised otherwise by a representative of the District Director.

2. All delinquent original returns should be submitted to the Special Procedures Function address on Appendix "B," unless the taxpayer is specifically advised otherwise by a representative of the District Director.

3. When a federal tax return is filed electronically, the taxpayer shall advise the District Director at the address of the Special Procedures Function on Appendix "B," in writing, that the filing has been done electronically and shall provide a copy of the document that was submitted electronically.

4. If on the petition date the debtor had failed to timely file a tax return due pre-petition, the debtor shall file all such delinquent returns within 30 days of the petition date unless an extension of time for filing has been granted by the Court after notice and hearing pursuant to Neb. R. Bankr. P. 9013-1.

**B. State Tax Returns.**

1. If on the petition date the debtor had failed to timely file any state tax return due pre-petition, the debtor shall file all such delinquent state tax returns within 30 days of the petition date unless an extension of time for filing has been granted by the Court after notice and hearing pursuant to Neb. R. Bankr. P. 9013-1.

2. All delinquent original Nebraska tax returns should be submitted to the Nebraska Department of Revenue address on Appendix "B" unless the taxpayer is specifically advised otherwise by a representative of the State Tax Commissioner.

**C. Duties of Debtors in Chapter 12 Cases.**

1. Initial Notice. The debtor, at the time of filing the schedules, must also serve a copy of the Initial Notice and proof of service prior to the § 341 Meeting as originally scheduled certifying that this notice, petition, schedules, and plan, if any, have been served upon all entities listed on the matrix, the U.S. Attorney, and the Chapter 12 Trustee. The initial Notice must contain the following information:

- a. Name and address of debtor or debtors.
- b. Date Chapter 12 petition was filed.
- c. Date schedules were filed.
- d. Date of §341 meeting and statement that a complaint to object to discharge or dischargeability must be filed within 60 days following the date scheduled for the §341 meeting or such objections are waived.
- e. Statement that claims may be filed and that the bar date for such filing is 90 days after the first date set for the meeting of creditors pursuant to 11 U.S.C. § 341(a).
- f. Statement that plan was filed with petition or was not so filed.
- g. If plan was filed with petition, the plan must be served with the Initial Notice.
- h. If plan was not filed with petition, a statement that debtor will serve the plan upon all parties when the plan is filed and that debtor will inform all parties of confirmation hearing date at the time the plan is filed.

I. The bar date for resistances to the plan in conformance with Neb. R. Bankr. P. 9013-1.

2. Supplementary Notice. If plan is filed after the petition and schedules are filed, the debtor shall serve the plan on all interested parties and comply with Neb. R. Bankr. P. 9013-1.

**RULE 4002-2. ADDRESS OF DEBTOR**

The debtors shall immediately notify counsel of any change of address during the pendency of the case and counsel shall immediately file a Notice of Change of Debtor's Address with the Court. If the debtor is not represented by counsel, the debtor(s) shall be responsible for filing a Notice of Change of Debtor's Address with the Court. The Court will not accept oral or telephone requests for address changes.

**RULE 4003-1. LIEN AVOIDANCE**

**A. 11 U.S.C. § 522 Lien Avoidance.** A proceeding under 11 U.S.C. § 522(f) by a debtor to avoid a lien or transfer of property may be brought by motion pursuant to Neb. R. Bankr. P. 9013-1. The caption of the motion shall identify the creditor whose lien is to be avoided. The motion shall set forth the amount of the lien and debtor's obligation secured by the lien sought to be avoided; the identity and fair market value of the property subject to said lien; the nature and amount of any other debts or obligations secured by an interest in the property; the dollar amount of the exemption; the specific statutory authority for the exemption; and the identity of any other property claimed to be exempt under said specific statute. All proceedings to avoid a lien except those under 11 U.S.C. § 522(f) shall be brought by adversary proceeding. A motion to sell free and clear of liens does not constitute a proceeding to avoid a lien within the meaning of this Local Rule and may be brought by motion.

If no resistance is timely filed pursuant to Neb. R. Bankr. P. 9013-1, the Court will enter an order.

**RULE 4008-1. HEARINGS ON REAFFIRMATION AGREEMENTS**

No reaffirmation hearing will be scheduled and no reaffirmation agreements will be reviewed by the Court unless a hearing or review is requested by a creditor or a debtor who is proceeding without an attorney or a debtor desires to reaffirm a debt post-discharge. See 11 U.S.C. §§ 524(c)(6) and (d).

**PART V. COURTS AND CLERKS**

**RULE 5005-1. ELECTRONIC FILINGS**

**A. The Electronic Filing System.** All documents submitted for filing in this district, no matter when a case was originally filed, shall be filed electronically using the Electronic Filing System ("System") or shall be scanned and uploaded to the System. Unless otherwise authorized by the assigned judge, all documents submitted for filing in bankruptcy cases or adversary proceedings in this district must be either filed electronically using the System or submitted to the Clerk's Office on CD/diskette as .pdf ("Portable Document Format")—files. Parties proceeding pro se shall not be required to file electronically. Non-registered claimants shall file the original paper copy of the proof of claim and attachments with the Court.

**B. Registration.**

1. Each attorney desiring to file pleadings or other papers electronically must complete and sign an Attorney Registration Form and attend the necessary training required by the Court. These forms are also available on our web site at [www.neb.uscourts.gov](http://www.neb.uscourts.gov).

2. All signed original Attorney Registration shall be mailed or delivered to the United States Courts, 111 S. 18<sup>th</sup> Plaza, Suite 1125, Omaha, NE 68102.

3. To ensure that the Clerk's Office has correctly entered a registering attorney's Internet e-mail address in the System, upon certification of requirements, the Clerk's Office will send the attorney an Internet e-mail message after assigning the attorney a password. The attorney may request the password by e-mail, telephone, regular first-class mail, or arrange to pick up his/her password at the Clerk's Office.

4. Once registered, an attorney may withdraw from participating in the System by providing the Clerk's Office with notice of withdrawal. Such notice must be in writing, and mailed or delivered to the United States Courts, 111 So. 18<sup>th</sup> Plaza, Suite 1125, Omaha, Nebraska 68102. Upon receipt, the Clerk's Office will immediately cancel the attorney's password and will delete the attorney's name from any applicable electronic service list.

5. If any of the information on the Attorney Registration Form changes, e.g., mailing address, e-mail address, etc., the attorney must submit an amended Attorney Registration Form addressed to the United States Courts, 111 S. 18<sup>th</sup> Plaza, Suite 1125, Omaha, Nebraska 68102.

**C. Fax Filings.** Filings with the Clerk may not be made by facsimile transmittal unless previously authorized by the Clerk or Clerk's designee in care of facsimile transmissions. In an emergency situation, counsel may seek leave to transmit matters by facsimile by telephoning the Clerk or Clerk's designee. If leave is obtained, the sender shall follow instructions of the Clerk. A facsimile cover sheet shall specify the name of the Clerk's designee who authorized the facsimile transmittal. If the item transmitted is for filing, the sender shall forthwith file an original. This rule is neutral on the issue of whether a pleading or matter transmitted to the Clerk's office by facsimile constitutes an effective filing.

**RULE 5005-2. DOCUMENTS FILED UNDER SEAL**

**A. In General.** A motion to seal may be filed electronically; however, the actual document(s) to be filed under seal shall be filed conventionally. The order of the Court authorizing the filing of such document(s) under seal will be entered electronically by the Clerk's Office and a paper copy of the order shall be attached to the document(s) under seal and delivered to the Clerk's Office.

1. Motion to Seal. No document shall be sealed except on order of the Court. A motion to seal may be made on any grounds permitted by law, shall contain the basis for why sealing is required of all or a portion of the document or object and shall be accompanied by a proposed order. Such motion shall address whether or not redaction may serve to eliminate or reduce the need for sealing.

a. Filed simultaneously with the motion to seal shall be the document or object to be sealed. The document or object shall be filed provisionally under seal, and will remain provisionally under seal until the Court rules on the motion.

2. Motion to Unseal or View. A motion to unseal or view a document or object may be made on any grounds permitted by law and shall be accompanied with a proposed order.

**RULE 5010-1. REOPENING CASES**

A motion to reopen a closed case shall be filed with the Clerk together with the appropriate filing fee, if any. The motion shall state specific facts showing cause for reopening the case and the reasons for such reopening. Notice of the motion shall be provided to any former trustee in the case and the United States Trustee's office. If the case is being reopened to enable movant to file a motion, pleading, document, or adversary proceeding regarding a specific creditor or party, notice shall also be given to that creditor or party. The motion shall inform the parties of the resistance date pursuant to Neb. R. Bankr. P. 9013-1.

**RULE 5011-1.            WITHDRAWAL OF REFERENCE**

All cases under Title 11 of the United States Code, and all proceedings arising under such Title 11, or arising in, or related to, a case under Title 11, are referred by the United States District Court for the District of Nebraska to the Bankruptcy Court pursuant to Nebraska General Rule NGenR 1.5. Motions to withdraw the reference shall be filed in accordance with NGenR 1.5. A motion to withdraw reference shall proceed under Neb. R. Bankr. P. 9013-1.

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**PART VI. COLLECTION AND LIQUIDATION OF THE ESTATE**

**RULE 6004-1. SALES OF ESTATE PROPERTY**

**A. Content of Notice of Sale.**

1. General. In addition to compliance with Federal Rule of Bankruptcy Procedure 2002(a)(2), 2002(c)(1), 6004 and Neb. R. Bankr. P. 9013-1, notices regarding motions for private sales or leases of property shall include a disclosure of the name of the purchaser and the relationship, if any, that the purchaser or the purchaser's firm, partnership, corporation or any other form of business association or relationship, and all members, associates and professional employees thereof may have directly or indirectly with the case in which notice of sale is filed or any case related thereto.

2. Tax Information. The notice shall include the following information concerning the tax consequences of the sale: the tax basis of the property; projected costs of sale; anticipated capital gain or loss; anticipated net taxable income from sale after adjustments. If the information is not available, the notice shall state information that is available and an explanation as to why other information is not available.

3. Motions for Sale of All or Substantially All of the Estate's Assets in Chapter 11 Cases. In a Chapter 11 case, if the debtor or trustee seeks authority to sell property of the estate pursuant to 11 U.S.C. § 363(b) prior to the entry of an order of confirmation, and such sale encompasses all or substantially all of the assets of the estate, the notice of sale shall contain a clear and conspicuous statement to that effect. In addition to the information required under Federal Rule of Bankruptcy Procedure 2002©), the notice of sale shall specify the extent, if any, to which the proceeds of sale shall be used to benefit each class of creditors, the extent of the debtor's liabilities, and the estimated net value of any of the remaining assets not subject to the proposed sale. The notice shall further state the business justification for disposing of estate assets before a disclosure statement has been approved or a plan confirmed.

**PART VII. ADVERSARY PROCEEDINGS**

**RULE 7001-1. ADVERSARY PROCEEDINGS - GENERAL**

**A. Applicability of Neb. R. Bankr. P. 9013-1 to Adversary Proceedings.**

1. In adversary proceedings, Neb. R. Bankr. P. 9013-1 applies to the following motions, and service is required on all parties appearing in the adversary proceeding:

- a. to abstain or withdraw reference
- b. to approve stipulations (However, if the stipulation is actually a compromise under Federal Rule of Bankruptcy Procedure 9019, it shall be served on all entities listed in that rule.)
- c. to consolidate
- d. discovery (See Neb. R. Bankr. P. 7026-1)
- e. to dismiss (However, if filed by the plaintiff, see subparagraph 2.h. below.)
- f. to file amended motion or pleading
- g. to file out of time
- h. for more definite statement
- i. to reconsider
- j. to substitute parties
- k. for summary judgment (However, the notice provided by the movant must specifically refer to the applicability of Local Rule 7056-1.
- l. to withdraw as attorney

2. In adversary proceedings, Neb. R. Bankr. P. 9013-1 does not apply to the following motions, which should be filed with the Clerk and served on all parties appearing in the adversary proceeding:

- a. to compel
- b. to continue a hearing, pursuant to Neb. R. Bankr. P. 9006-2
- c. for default judgment
- d. to dismiss, filed by plaintiff (If Neb. R. Bankr. P. 7001-1.a. has been complied with and there is no other claim pending in the adversary proceeding by another party, the motion shall so state and a proposed order shall be submitted with the motion. Service shall comply with Federal Rule of Bankruptcy Procedure 7041.)
- e. to extend time deadlines
- f. to file a brief
- g. for protective order
- h. for temporary restraining order

3. In adversary proceedings, Neb. R. Bankr. P. 9013-1 applies to all other motions, and service is required on all parties appearing in the adversary proceeding.

**B. Motion to Dismiss Adversary Proceeding Concerning Discharge or Dischargeability of a Debt.** A motion to dismiss an adversary proceeding which seeks to bar discharge under 11 U.S.C. § 727 or to except a debt from discharge under 11 U.S.C. § 523 shall set forth the consideration, terms and conditions under which the pleading is being withdrawn or dismissed. A motion to dismiss an adversary proceeding which seeks to bar discharge under § 727 shall be served upon the adverse party, the trustee, if any, and upon the United States Trustee pursuant to Federal Rule of Bankruptcy Procedure 7041, with notice of a resistance date established pursuant to Neb. R. Bankr. P. 9013-1.

**C. Applicability of Federal Rule of Civil Procedure 16 To Adversary Proceedings.** Unless otherwise ordered by the Court sua sponte, or upon motion filed pursuant to Neb. R. Bankr. P. 9013-1, Federal Rule of Civil Procedure 16(b) shall not apply in adversary proceedings. The Court will continue its practice of entering a pretrial order which shall require the filing of a joint preliminary pretrial statement by a date certain.

**D. Applicability of Federal Rule of Civil Procedure 26 to Adversary Proceedings.** Federal Rule of Civil Procedure 26, excepting subsections (d) and (f), shall apply in adversary proceedings. Disclosures required by Rule 26(a)(1) shall be made within forty-five (45) days after the Answer is filed.

#### **RULE 7026-1. DISCOVERY MOTIONS**

**A.** Except as otherwise provided in this rule, Neb. R. Bankr. P. 9013-1 and the procedures of Nebraska Civil Rule 7.1(I) apply to discovery motions.

**B.** To curtail undue delay in the administration of justice, this court will not consider any discovery motion unless counsel for the moving party, as part of the motion, shows in writing that after personal consultation with counsel for opposing parties and sincere attempts to resolve differences, they are unable to reach an accord. This showing shall also recite the date, time, and place of such communications and the names of all persons participating in them. As used in this rule, "counsel" includes parties who are acting pro se.

1. "Personal Consultation" Defined. "Personal consultation" shall include person-to-person conversation, either in the physical presence of each counsel or on the telephone. An exchange of letters, faxes, voice mail messages, or e-mails between or among counsel may also constitute personal consultation for

purposes of this rule upon a showing that person-to-person conversation was attempted by the moving party and thwarted by the non-moving party.

2. Form. A discovery motion shall include in the text of the motion or in an attachment a verbatim recitation of each interrogatory, request, answer, response, and objection that is the subject of the motion.

**RULE 7055-1.        DEFAULT**

**A.** To obtain a Clerk's Entry of Default under Federal Rule of Bankruptcy Procedure 7055(a), the following materials should be filed with the Clerk:

1. A Motion for Entry of Default by the Clerk.

2. A Proposed Clerk's Entry of Default. This Clerk's Entry of Default should state that the default is being entered for failure to plead or otherwise defend as provided by Federal Rule of Bankruptcy Procedure 7055(a). See Neb. Official Form 7055-1 at Appendix "K."

**B.** While Federal Rule of Bankruptcy Procedure 7055(b) provides for entry of default judgment by the Clerk, the Court has determined that entry of such judgment under all circumstances should be made by a judge rather than the Clerk.

**C.** To obtain entry of a default judgment under Federal Rule of Bankruptcy Procedure 7055(b), the party requesting the judgment shall, after obtaining a Clerk's entry of default as prescribed in subsection A above, submit the following materials:

1. A Motion for Entry of Default Judgment.

2. An affidavit stating that the party against whom the default judgment is requested is not an infant or incompetent person as set out in Federal Rule of Bankruptcy Procedure 7055(b)(2). If judgment is sought for a sum certain, the affidavit should set forth that amount, including the exact computation of interest and costs.

3. A proposed judgment for the Court's consideration.

## **RULE 7056-1. SUMMARY JUDGMENT PROCEDURE**

Except as otherwise provided in this rule, Nebraska Rule of Bankruptcy Procedure 9013-1 and the procedures of Nebraska Civil Rule 7.1 apply to motions for summary judgment. The court will determine on a case-by-case basis whether to schedule summary judgment motions for oral argument.

### **A. Moving Party.**

1. Motion and Supporting Materials. The moving party shall contemporaneously file a brief in support of the motion. The moving party shall also contemporaneously file the evidentiary materials upon which the party is relying, or identify any previously filed evidentiary materials upon which the party is relying.

2. Statement of Material Facts. The moving party shall set forth in the brief in support of the motion for summary judgment a separate statement of material facts as to which the moving party contends there is no genuine issue to be tried and that entitle the moving party to judgment as a matter of law. Failure to submit a statement of facts constitutes grounds for denial of the motion.

3. Form; Citation to Record. The statement of facts shall consist of short numbered paragraphs, each containing pinpoint references to affidavits, pleadings, discovery responses, deposition testimony (by page and line), or other materials relied upon to support the material facts recited in that paragraph. A fact is "material" if pertinent to the outcome of the issues identified in the motion for summary judgment. The statement of facts shall describe the parties and recite all facts supporting the court's venue and jurisdiction. The statement shall not contain legal conclusions. Failure to provide citations to the exact locations in the record supporting the factual allegations shall be grounds to deny the motion.

### **B. Opposing Party.**

1. Response to the Motion. A party resisting a motion for summary judgment must file a written objection or resistance pursuant to Neb. R. Bankr. P. 9013-1. A brief in support of the resistance, along with any evidentiary materials not previously filed on which the objecting party relies, should be filed at the same time as the resistance or objection.

2. Response to Movant's Statement. The party opposing a motion for summary judgment shall include in its brief a concise response to the moving party's statement of material facts. The response shall address each numbered paragraph in the movant's statement and, in the case of any disagreement, contain pinpoint references to affidavits, pleadings, discovery responses, deposition

testimony (by page and line), or other materials upon which the opposing party relies. Properly referenced material facts in the movant's statement will be deemed admitted unless controverted by the opposing party's response.

3. Response Time. An opposing brief may be filed no later than twenty (20) days after service of the motion and supporting brief. Failure to file an opposing brief alone shall not be considered to be a confession of the motion; however, nothing in this rule shall excuse a party opposing a motion for summary judgment from meeting the party's burden under Federal Rule of Civil Procedure 56, made applicable to bankruptcy cases by Federal Rule of Bankruptcy Procedure 7056.

**RULE 7067-1. REGISTRY FUNDS; DEPOSIT IN THE COURT**

**A. Deposit of Registry Fund; Content of Order.** No money shall be sent to the Court or the Clerk for deposit into the Court's registry without a Court order. The order shall be prepared by the party seeking the order of deposit. The order shall state the exact amount or approximate amount to be deposited; that the funds are to be deposited into an interest-bearing account; and that the funds will remain on deposit until further order of the Court

**B. Deposit.** As soon as practicable, the Clerk shall deposit the monies pursuant to the order of deposit into the Court's Registry Account.

**C. Fees.** Except as otherwise ordered, the Clerk will deduct from the income earned on the investment at the time the income becomes available, a fee as authorized by the Judicial Conference of the United States and set out by the Director of the Administrative Office of the United States Courts.

**D. Disbursements of Registry Fund; Content of Order.** To withdraw money deposited in the court pursuant to Federal Rule of Civil Procedure 67 and subsequently deposited into an interest-bearing account or instrument as required by Rule 67, a party must file a motion for withdrawal of the funds and simultaneously submit a proposed order and completed IRS Form W-9.

**PART IX. GENERAL PROVISIONS**

**RULE 9004-1. CAPTION**

The caption of each pleading, proposed order or other document shall describe with specificity its purpose and shall include the bankruptcy number and adversary number, if any, assigned by the Clerk and the chapter in which debtor seeks or has been granted relief.

**RULE 9004-2. ATTORNEY IDENTIFICATION**

The name, office address, telephone number, facsimile number, and state bar identification number of any attorney filing any pleading or motion shall be included on the document.

**RULE 9004-3 DEFICIENCY NOTICE/CORRECTED FILINGS/DATE OF FILINGS**

The Court will continue its current practice of issuing a Deficiency Notice for all documents incorrectly filed.

1. The Deficiency Notice will generally describe the deficiency in the incorrectly filed document.

2. If the filing party disputes the existence of a deficiency it shall file a request for hearing with the Court within 10 days of issuance of the notice at which time the Court will determine whether the filing should be stricken.

3. Alternatively, the filing party may file an amended document (citing the original filed document docket number) within 10 days of the Court issuance of the Deficiency Notice. If filed within this time period the amended document's filing date will be deemed the original filing date of the original filed document for all purposes. Any applicable objection or resistance deadlines related to the amended document shall be recomputed and re-noticed by the filing party from the corrected document's filing date or Court Order, if applicable.

4. If the document is not amended as required herein and no hearing is requested, the incorrectly filed document will be deemed stricken without further order of the Court.

**RULE 9006-1. TIME PERIODS**

**A. Shortened Notice.** For good cause shown, a party may request that a hearing or bar date be set on notice shorter than would otherwise be required.

1. Caption. On all requests for expedited hearings or expedited rulings, the caption of the motion shall include the language "Request for Expedited Hearing" or "Request for Expedited Ruling" or "Request for Shortened Notice." All motions for expedited hearings or shortened notice must be filed as separate motions and shall not be combined within the body of other relief.

2. Application. All requests for a hearing or bar date to be set upon shortened notice shall state the nature of the request; the name of counsel for the opposing party, if known; the reasons for seeking an order shortening notice; and points and authorities in support thereof. All such applications shall state facts that justify the setting of a hearing or bar date on shortened notice. Notice of the application for order shortening time is not required. The application for order shortening time will be determined *ex parte* by the Court, subject to the right of any party to object to the adequacy of notice pursuant to subsection B. below.

3. Scope of Notice Required. Unless otherwise ordered by the Court, the moving party shall give notice of both the order shortening time and the substance of the underlying motion to all parties to whom notice of the underlying motion is required to be given by the Federal Rules of Bankruptcy Procedure or by these Local Rules, as well as to any other party that is likely to be adversely affected by the granting of the underlying motion.

4. Proof of Notice to Be Presented at Hearing on the Substantive Motion. It shall be the duty of the party that has obtained an order shortening time:

- a. Telephone Notice. To make a good faith effort to advise all other parties and their counsel, if known, by telephone and confirming letter or by such other means as are reasonably calculated to give equally prompt notice of the date, time and substance of the motion being scheduled for a shortened bar date or heard on shortened notice.
- b. Expected Appearance. To advise the Court of efforts to contact other parties and their counsel and whether any other counsel, after such efforts to advise parties and their counsel, has requested to be present at the time the motion is presented to the Court.



- c. Transmittal of Papers. To transmit all moving papers to all parties as soon as is practicable.
- d. Declaration of Notice. To present a declaration or professional statement of the efforts to communicate with opposing parties and their counsel or present to the Court a declaration setting forth facts sufficient to show why the motion should be heard despite failure to contact opposing parties.

**B. Resistance to Shortened Notice.** At any time before the conclusion of the hearing on the underlying motion or before the expiration of the resistance period, any party may object to the adequacy of the notice received and seek a continuance for good cause shown.

#### **RULE 9006-2. CONTINUANCES OF SCHEDULED HEARINGS**

**A. Continuance upon Stipulation.** As soon as all parties in interest stipulate for the continuance of a hearing on a motion, they shall immediately notify the courtroom deputy of their stipulation which shall be subject to approval by the Court as required in subsection D. below. Unless the continuance is approved by the Court, at least one party must appear at the scheduled hearing.

**B. Continuance upon Motion.** If a party wants to continue a hearing and all parties in interest will not so stipulate, a motion for the continuance shall be filed with the Court and served upon all previously noticed parties at least two days before the day set for the hearing. The motion shall set forth, in detail, the reasons therefor and shall state whether any continuance has been previously granted.

**C. Notice of Continuance.** If a continuance is approved, the moving party shall be responsible for providing immediate telephone notice of the continuance to all parties expected to appear at the hearing.

**D. Court Approval.** No continuance (whether stipulated to by counsel or not) shall be effective unless the Court announces it in open Court, approves it in an order, or the courtroom deputy informs the parties that the judge has authorized the requested continuance.

**RULE 9011-1. SIGNATURES**

**A.** Petitions, lists, schedules and statements, amendments, pleadings, affidavits, and other documents which must contain original signatures or which require verification under Federal Rule of Bankruptcy Procedure 1008 or an unsworn declaration as provided in 28 U.S.C. § 1746, shall be filed electronically and may include, in lieu of the actual signature, the signature form described in Section C. below.

**B.** The attorney of record or the party originating the document shall maintain the original signed document for all bankruptcy cases at least one year after the case is closed. In adversary proceedings, the parties shall maintain the original document until after the case ends and all time periods for appeals have expired. Upon request, the original document must be provided to other parties or the Court for review. (Federal Rule of Bankruptcy Procedure 9011 applies.)

**C.** The pleading or other document electronically filed shall indicate a signature, e.g., "s/ Jane Doe."

**D.** The following procedure applies when a stipulation or other document requires two or more signatures:

1. The filing attorney shall initially confirm that the content of the document is acceptable to all persons required to sign the document and shall obtain the physical signatures of all parties on the document. For purposes of this rule, physical, facsimile or electronic signatures are permitted. A document may be signed in counterparts. (Federal Rule of Bankruptcy Procedure 9011 applies.)

2. The filing attorney then shall file the document electronically, indicating the signatories, e.g., "s/ Jane Doe," etc.

3. The filing attorney shall maintain the signed document for all bankruptcy cases at least one year after the case is closed. In adversary proceedings, the parties shall maintain the signed document until after the case ends and all time periods for appeals have expired. Upon request, the signed document must be provided to other parties or the Court for review.

## RULE 9013-1. MOTION PRACTICE

### A. Applicability.

1. Bankruptcy Case. The procedures of this Local Rule shall apply to all motions filed in bankruptcy cases except for those particular motions governed by Neb. R. Bankr. P. 1007-1.B., 1017-1, or 2014-1.B., and motions for relief from the automatic stay under Neb. R. Bankr. P. 4001-1.

2. Adversary Proceedings. The procedures of this Local Rule shall apply to all motions filed in adversary proceedings except for those particular motions listed in subsection 2 of Neb. R. Bankr. P. 7001-1.

3. The procedures of this Local Rule do not apply to non-substantive motions, which will be considered by the court without resistance or hearing, or to motions which are set for hearing regardless of objection or resistance. Examples of motions which do not require 9013-1 notice include:

- a. motion to compel
- b. motion for contempt
- c. to continue a hearing, pursuant to Neb. R. Bankr. P. 9006-2
- d. discovery motion
- e. motion/request for expedited hearing
- f. motion for extension of time to file:
  - i. answer
  - ii. plan (**Note:** motions to extend the exclusivity period for filing a plan or disclosure statement **do** require a 9013-1 notice)
  - iii. preliminary pretrial statement
  - iv. schedules
- g. motion to file instant
- h. motion/request for hearing
- i. motion for injunction under Federal Rule of Bankruptcy Procedure 7065
- j. motion for leave to file reply briefs
- k. motion for leave to intervene under Federal Rule of Bankruptcy Procedure 2018
- l. motion to limit service
- m. motion for more definite statement under Federal Rule of Bankruptcy Procedure 7012
- n. motion for payment of unclaimed funds under 11 U.S.C. § 347 and Federal Rule of Bankruptcy Procedure 3011

- o. motion for protective order
- p. motion to quash under Federal Rule of Bankruptcy Procedure 9016
- q. motion for sanctions
- r. motion to seal document or case
- s. motion to shorten notice time
- t. motion for stay
- u. motion to strike
- v. motion for temporary restraining order

**B. Definition of Motion.** "Motion" for purposes of Neb. R. Bankr. P. 9013-1, 9017-1, and 9072-1 includes headings and documents entitled "Motion," "Application," "Objection to Claim," "Disclosure Statement," "Plan" and other documents referred to in Appendix "A".

**C. Form of Motion or Resistance.** All motions shall plead facts which establish that the moving party is entitled to the relief sought. The motion shall cite statutory, case, or rule authority for granting relief. All motions, including motions for relief from stay, shall conclude with an unambiguous request for particular relief. All resistances to any motion shall set forth the specific factual and legal basis and conclude with a particular request for relief. Motions and resistances shall be served in conformance with this Neb. R. Bankr. P. 9013-1.

**D. Resistance Date.** Unless otherwise ordered or otherwise provided for in a Federal Rule of Bankruptcy Procedure (see, e.g., Federal Rule of Bankruptcy Procedure 4001(c) and (d) and 2002(b)), upon twenty (20) days notice to creditors and interested parties entitled to notice, the Court will consider ruling on the motion pursuant to subsection I below, unless a resistance or request for hearing is filed and served on or before the deadline provided in the notice of the motion. If no resistance is timely filed and served, the Court will enter an order.

**E. Notice.** At the time a motion is filed, the moving party shall serve the motion on and shall provide notice to all parties in interest and those that have requested notice pursuant to Federal Rule of Bankruptcy Procedure 2002. The notice shall state the specific calendar date by which any resistance or request for hearing must be filed and served. The calculation of such date shall not include the additional three (3) days permitted under Federal Rule of Bankruptcy Procedure 9006(f) for service by mail even though the provisions of Federal Rule of Bankruptcy Procedure 9006(f) shall continue to

apply. The notice will be defective if it provides that a resistance or request must be filed within a specified number of days.

**F. Proof of Service.** Proof of service of the notice and motion shall be filed contemporaneously with the motion. The proof of service shall contain a list of recipients and shall attach a copy of the notice. The proof of service shall be filed as a document separate from the motion.

**G. Service on the United States.** Notice of a matter concerning an agency of the United States should be served on the United States Attorney General, the United States Attorney for the District of Nebraska and the agency representative at the address reflected in Appendix "B."

**H. Withdrawal of Motions.** Any request to withdraw a motion must be filed and served upon all previously noticed parties. As soon as a decision has been made to withdraw a motion, the moving party shall immediately notify the courtroom deputy.

**I. Hearings on Motions.** If the resistance period expires without the filing of any resistance or request for hearing, the Court will consider entering an order granting the relief sought without further notice or hearing. If a timely resistance or request for hearing is filed and served, the Clerk shall schedule a hearing upon not less than eleven (11) days notice. Parties shall exchange declarations or affidavits and documentary evidence before the hearing in accordance with Neb. R. Bankr. P. 9017-1. Unless otherwise ordered, oral arguments will be scheduled in the courtroom. A party may either appear in person or participate by telephone.

**J. Appearance at Hearings.** A party may either appear in person in the courtroom or participate by telephone. Parties shall be available to the Court when the Court initiates the telephone call(s) for the hearing. It is the responsibility of the parties who are participating by telephone to inform the appropriate courtroom deputy, prior to the hearing, of the telephone number where they can be contacted for the hearing, if the telephone number is different from their regular business telephone number.

**RULE 9014-1. APPLICABILITY OF Federal Rule of Civil Procedure 16 AND 26 TO CONTESTED MATTERS**

**A.** Unless otherwise ordered by the Court *sua sponte* or

upon motion filed pursuant to Neb. R. Bankr. P. 9013-1, Federal Rule of Civil Procedure 16(b) shall not apply in contested matters. The Court will continue its practice of entering a pretrial order which require the filing of a joint preliminary pretrial statement by a date certain.

**B.** Unless otherwise ordered by the Court *sua sponte* or upon motion filed pursuant to Neb. R. Bankr. P. 9013-1, Federal Rule of Civil Procedure 26(a), (d), and (f) shall not apply in contested matters.

**RULE 9015-1. JURY TRIAL**

**A. Applicable Rules.** Federal Rule of Civil Procedure 38, 47-51, and 81(c) apply in adversary proceedings defined in Federal Rule of Bankruptcy Procedure 7001 and all proceedings wherein a party may have a right to trial by jury.

**B. Demand for Jury Trial.** A demand for jury trial shall be made in accordance with Federal Rule of Civil Procedure 38 and filed in the office of the Clerk. After notice and hearing, the Bankruptcy Judge shall rule upon the demand for jury trial and make findings as to which issues are triable to a jury as a matter of right.

**C. Reference Withdrawal.** If the Bankruptcy Judge determines that a party has a right to a jury trial on some or all issues and if all of the parties to the particular contested matter or adversary proceeding have not given their express consent for the Bankruptcy Judge to conduct the jury trial on such issues, the Bankruptcy Judge shall request the United States District Court to withdraw the reference as to those matters triable to a jury and such other issues as the United States District Court shall determine.

**RULE 9017-1. HEARINGS UPON DECLARATIONS AND DOCUMENTARY EVIDENCE; DESTRUCTION OF EXHIBITS**

**A. General.** Hearings scheduled on motions shall be governed by this Local Rule and attached Docketing Standards procedures, Appendix "N."

**B. Evidence.**

1. Declarations; Affidavits. Evidence submitted in support of or in opposition to motions shall be electronically filed in the form of declarations or affidavits and documentary

evidence. The caption of the affidavit or declaration shall identify the affiant and the name of the pleading which the affidavit or declaration supports. Oral testimony will not be permitted at hearings on motions unless otherwise ordered. A party may request leave to present oral testimony in support of or in opposition to a motion by filing and serving a written request at least five (5) days before the hearing date. Oral testimony on motions will rarely be permitted.

2. Exhibits. Except in the case of motions for relief from the automatic stay and objections to claims (see Neb. R. Bankr. P. 4001-1.D. and F. and 3007-1.A.), evidentiary materials, including document discovery material and declarations or affidavits, as are being relied upon ("exhibits"), shall be electronically filed. Exhibits, including but not limited to leases, notes and the like, which are not available in electronic form, may be filed on diskette as .pdf files. A copy of the "Notice of Electronic Filing" shall describe the document so filed. Such documents, or the relevant portions thereof, should be electronically imaged (i.e., "scanned") and saved as .pdf files. For electronically filed exhibits, follow the procedures outlined in Appendix "N". If pleadings are filed with attachments, the attachments should be clearly identified at the top of the page. The Court may exclude evidence not filed and transmitted in accordance with these Local Rules.

- DRAFT
- a. Evidence offered at the hearing shall be presented by affidavit pursuant to Neb. R. Bankr. P. 9017-1. Affidavits and exhibits shall be filed with the Clerk's Office at least three (3) business days prior to the hearing.
  - b. Affidavits offered in Motion for Relief from Automatic Stay matters shall comply with Neb. R. Bankr. P. 4001-1(F) and 9017-1. The hearing shall be a final hearing as described in 11 U.S.C. § 362(d) and (e) unless, at the conclusion of the hearing, the Court concludes that the hearing should be treated as a preliminary hearing as described in those statutes.
  - c. MOTIONS FOR RELIEF FROM AUTOMATIC STAY, MOTIONS FOR USE OF CASH COLLATERAL, CHAPTER 12 LOCAL RULE 3015-1 REQUIREMENT AND SIMILAR MOTIONS. No exhibits or supporting documents shall be filed with the initial "motion." The "motion"

(including a Chapter 12 Plan) shall include in the body, or in an attachment, a written summary of contents of the exhibits or documents. The exhibits shall be served on opposing counsel in electronic or paper form and the movant shall provide an electronic or paper copy to any interested party upon request. A certificate of service must be filed with the Court.

- d. **CONTESTED MATTERS.** If a resistance to a motion is filed, and the matter set for hearing, both parties shall file exhibits in electronic format. Such filing shall be accomplished at least three (3) business days prior to the hearing.
- e. **ADVERSARY PROCEEDINGS.** Summary judgment, motion to dismiss, etc. The Index of Evidence and all exhibits shall be filed electronically or submitted to the Clerk's Office on diskette as .pdf files. An electronic or paper copy of the Index and Exhibits shall be served on the opposing party, if required by the Code or Rules, and a certificate of service must be filed with the Court.

**C. Destruction of Exhibits.** Unless ordered by the Court, all exhibits shall be electronically filed. The Clerk shall retain paper exhibits for a period of ninety (90) days after a final order is entered on a motion. The Clerk shall discard exhibits without notice ninety (90) days after final judgment or order has been entered on a motion provided that a final order has been entered on all appeals thereof. On the date that the Clerk destroys or returns the exhibits, the Clerk shall enter a remark on the docket sheet stating the disposition and the date thereof.

#### **RULE 9019-1. SETTLEMENTS AND STIPULATIONS**

**A. Notification to Court of Settlement of Matter Scheduled for Hearing.** Parties shall inform the Courtroom Deputy immediately by telephone or other expeditious means when any matter set for hearing has been settled out of Court. Upon receipt of notice of settlement, the Clerk shall cancel the hearing and direct the parties to file within fifteen (15) days a pleading which establishes that the matter was settled.



**B. Effect of Stipulations.** Except as otherwise provided by the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure, including without limitation Federal Rule of Bankruptcy Procedure 4001, stipulations filed with the Court are binding upon the parties thereto in accordance with their terms. Without limiting any notices otherwise required by the Bankruptcy Code, Bankruptcy Rules or these Local Rules, a stipulation which provides for relief from the automatic stay which prohibits or conditions the use, sale or lease of property, provides for adequate protection, or use of cash collateral, or for obtaining credit, shall not be enforceable between the parties or as against third parties, unless it is approved by the Court after notice and hearing as required by Federal Rule of Bankruptcy Procedure 4001(d). The party filing the stipulation must have in its possession the original document with all original signatures and retain such document.

**C. Stipulations Requiring Notice Under Federal Rule of Bankruptcy Procedure 4001(d) or 9019.** Unless otherwise ordered by the Court, the notice requirement of Federal Rule of Bankruptcy Procedure 4001(d) and 9019 may be satisfied by compliance with Neb. R. Bankr. P. 9013-1 as complemented by Federal Rule of Bankruptcy Procedure 4001(d) or 9019.

#### **RULE 9072-1. ORDERS - PROPOSED**

**A. Form of Proposed Orders.** The Clerk's Office will electronically file all orders and notices. DO NOT SUBMIT A PROPOSED ORDER TO THE COURT UNLESS INSTRUCTED TO DO SO.

1. The Court will produce and file standard orders to grant or deny motions. Many orders will be in the form of a text-only docket entry "order," entered by Court employees authorized to do so by the judge, which orders shall constitute the only Court order concerning the matter. Under certain conditions, a party may be requested by the Court to submit the proposed order to the Courtroom Deputy responsible for the case.

2. If counsel needs specific language in an order, counsel may contact the Courtroom Deputy responsible for the case by telephone or e-mail and request permission to submit a proposed order.

3. E-mail addresses have been established for the electronic submission of proposed orders authorized to be submitted. See Appendix "B".

4. Electronically submitted orders may not be combined with the application or motion into one document. The application or motion must be entered on the docket prior to submitting the order electronically. DO NOT ATTEMPT TO FILE A PLEADING WHICH CONTAINS AN ORDER IN THE BODY OF THE PLEADING.

5. All proposed orders must be submitted in a format compatible with WordPerfect 11 or a lower WordPerfect version, which is a "Save As" option in most word processing software.

6. All signed orders will be filed electronically by the Court or Court personnel. Any order filed electronically without the original signature of a judge, but with the judge's electronic signature, has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

7. The Court will not serve the lien holder, the claim holder, etc., of any orders entered on uncontested Neb. R. Bankr. P. 9013-1 matters. Any non-electronic creditor or party-in-interest required to receive service of said orders entered by the Court should be appropriately served by the movant.

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## APPENDIX "A"

### Matters Governed by Neb. R. Bankr. P. 9013-1.

Neb. R. Bankr. P. 9013-1 applies to all motions, except those explicitly excluded by 9013-1. With regards to adversary proceedings, see Neb. R. Bankr. P. 7001-1. In the bankruptcy case, motions covered by Neb. R. Bankr. P. 9013-1 shall include, without limitation, the following:

1. Applications in excess of \$1,000 by professionals, including attorneys, for allowance and payment of claims for services rendered and expenses incurred under 11 U.S.C. §§ 330, 331.
2. Motion to abandon property of the estate under 11 U.S.C. § 554.
3. Motion to abstain.
4. Motion for adequate protection under 11 U.S.C. §§ 362 or 1205
5. Motion to allow filing claim out of time.
6. Motion to allow post petition claim.
7. Motion to alter, amend or reconsider judgments.
8. Motion to appoint trustee.
9. Motion for approval of Rule 2004 examination.
10. Motion to approve compromise, settlement, stipulation and agreement, including those requiring notice pursuant to Federal Rule of Bankruptcy Procedure 4001 (d), including agreements to modify or terminate the automatic stay, to provide adequate protection, to use cash collateral, or to create senior or equal liens on property of the estate or to obtain credit.
11. Motion to approve disclosure statement under 11 U.S.C. § 1125 and § 901. The filing of a disclosure statement is the equivalent of a motion to approve it. See Neb. R. Bankr. P. 2080-1.D and 2080-1.F.
12. Motion to approve final decree.
13. Motion to approve standing trustee's final report.

14. Motion for authorization to use cash collateral, obtain credit, grant security interests or provide administrative priority status and other relief under 11 U.S.C. § 364.
15. Motion to avoid liens under 11 U.S.C. § 522.
16. Motion to change venue under 28 U.S.C. § 1412.
17. Motion to modify Chapter 12 or Chapter 13 plans. See 11 U.S.C. § 1223, 1229, 1323, 1329.
18. Motion to consolidate bankruptcy cases.
19. Motion to convert a case (but see Neb. R. Bankr. P. 1017-1 and 9013-1).
20. Motion for discharge (Chapter 12).
21. Motion for discharge under 11 U.S.C. § 1328(b).
22. Motion to dismiss a case (See Neb. R. Bankr. P. 1017-2).
23. Motion to distribute funds held by Chapter 12 or 13 Trustee.
24. Motion to establish a deadline for filing of proofs of claim or interests.
25. Motion to examine debtor's transactions with debtor's attorney or with other professionals under Fed. Bankr. R. 2017 and Neb. R. Bankr. P. 2017-1.
26. Motion to extend exclusivity period under 11 U.S.C. § 1121(d).
27. Motion to extend plan payments.
28. Motion to extend time to object to discharge of debt under 11 U.S.C. § 523 (a)(2), (4) or (6) pursuant to 11 U.S.C. § 523(c).
29. Motion to extend time to object to discharge or to file complaint seeking to bar discharge under 11 U.S.C. § 727.
30. Motion for hardship discharge pursuant to Fed. Bankr. R. 4007(d).
31. Motion for leave to enroll in federal agricultural programs. Such motions shall include the specific government program to be applied for.
32. Motion to prohibit use, sale or lease of collateral.

33. Motion to redeem property.
34. Motion for relief from automatic stay under 11 U.S.C. § 362(d) if filed by a Nebraska county respecting tax claims.
35. Motion for relief from co-debtor stay. See Neb. R. Bankr. P. 4001-1.B.
36. Motion to reopen a case under 11 U.S.C. § 350.
37. Motion respecting the assumption or rejection of executory contracts or leases under 11 U.S.C. § 365.
38. Motion to sequester rents and profits.
39. Motion to suspend payments in Chapter 13.
40. Motion for turnover.
41. Motion to use, sell or lease property under 11 U.S.C. § 363(b)(1).
42. Motion to withdraw as counsel.
43. Motion to withdraw reference.
44. Objection to Chapter 13 Trustee's motion to allow claims.
45. Objection to claims.
46. Objection to debtor's claimed exemptions.
47. Other motions. The Court may determine other motions using this procedure provided that the motion specifies why this procedure is appropriate under 11 U.S.C. § 102 (1)(B).

## APPENDIX "B"

### ADDRESSES

#### Chapter 12 Trustee

P.O. Box 127  
Omaha, NE 68101-0127

#### Chapter 13 Trustee

13930 Gold Circle, Suite 201  
Omaha, Nebraska 68144

#### Department of Agriculture

Office of General Counsel  
P. O. Box 419205-Mail Stop 1401  
Kansas City, MO 64141-0205

#### Department of Education

Office of General Counsel  
600 Independence Avenue, S.W.  
Room 5442  
Washington, D.C. 20202

Office of Post-Secondary Education  
50 United Nations Plaza Region IX, Rm. 243  
San Francisco, CA 94102

#### Department of Health and Human Services (HHS)

Regional Attorney  
Office of the General Counsel  
601 East 12th Street, Room 411  
Kansas City, MO 64106

#### Department of Housing and Urban Development (HUD)

Chief Counsel  
Region VII - Omaha Office  
10909 Mill Valley Road  
Omaha, Nebraska 68154-3955

Farm Service Agency

State Executive Director  
CCC/Ag Credit (FmHA)  
7131 A Street  
P. O. Box 57975  
Lincoln, NE 68505-7975

Internal Revenue Service (IRS)

Internal Revenue Service  
Insolvency  
210 Walnut Street, Stop 5301  
Des Moines, Iowa 50309-2103

Nebraska Department of Revenue

Attn: Bankruptcy Unit  
P. O. Box 94818  
Lincoln, NE 68509-4818

Small Business Administration (SBA)

District Counsel  
11145 Mill Valley Road  
Omaha, Nebraska 68154

Social Security Administration

Chief Counsel  
601 East 12<sup>th</sup> Street, Room 535  
Kansas City, MO 64106

United States Attorney

United States Attorney's Office - Omaha  
1620 Dodge Street, Suite 1400  
Omaha, Nebraska 68101

United States Attorney's Office - Lincoln  
487 Federal Building  
100 Centennial Mall North  
Lincoln, Nebraska 68508

United States Attorney General

U.S. Department of Justice  
950 Pennsylvania Avenue N.W., Rm 5137  
Washington, D.C. 20530

United States Bankruptcy Court for the District of Nebraska

United States Bankruptcy Court  
for the District of Nebraska  
111 South 18<sup>th</sup> Plaza, Suite 1125  
Omaha, NE 68102

(402) 661-7444

(402) 661-7475 - Courtroom Department

[Omaha Courtroom@neb.uscourts.gov](mailto:OmahaCourtroom@neb.uscourts.gov) - Courtroom Department

United States Bankruptcy Court  
for the District of Nebraska  
460 Federal Building  
100 Centennial Mall North  
Lincoln, NE 68508

(402) 437-5100

(402) 437-5100 Ext. 3207 - Courtroom Department

[Lincoln Courtroom@neb.uscourts.gov](mailto:LincolnCourtroom@neb.uscourts.gov) - Courtroom Department

United States Department of Agriculture (USDA) Rural Development

State Executive Director  
Rm 152 Federal Building  
100 Centennial Mall North  
Lincoln, NE 68508

United States Postal Service (all cases other than tort)

Law Dept. - Western Area  
9350 South 150 East, Suite 800  
Sandy, Utah 84070 - 2716

United States Postal Service (Tort Cases Only)

Law Dept.  
P.O. Box 66640  
St. Louis, Missouri 63166-6640

United States Trustee

111 South 18<sup>th</sup> Plaza, Suite 1148  
Omaha, NE 68102



## APPENDIX "C"

### ASSIGNMENT OF CASES PER RULE 1073-1

#### a. Omaha Area

Cases originating from any of the following counties shall be assigned to the office of the Clerk of the Bankruptcy Court in Omaha:

Burt, Cass, Cedar, Cuming, Dakota, Dixon, Dodge, Douglas, Knox, Pierce, Sarpy, Thurston, Washington and Wayne.

#### b. Lincoln Area

Cases originating from any of the following counties shall be assigned to the office of the Clerk of the Bankruptcy Court in Lincoln:

Adams, Antelope, Boone, Boyd, Buffalo, Butler, Clay, Colfax, Fillmore, Franklin, Gage, Greeley, Hall, Hamilton, Harlan, Holt, Howard, Jefferson, Johnson, Kearney, Lancaster, Madison, Merrick, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Phelps, Platte, Polk, Richardson, Saline, Saunders, Seward, Sherman, Stanton, Thayer, Webster, Wheeler and York.

#### c. North Platte Area

Cases originating from any of the following counties are designated North Platte cases. All cases from these counties will be assigned to the office of the Clerk of the Bankruptcy Court in Lincoln.

Arthur, Banner, Blaine, Box Butte, Brown, Chase, Cherry, Cheyenne, Custer, Dawes, Dawson, Deuel, Dundy, Frontier, Furnas, Garden, Garfield, Gosper, Grant, Hayes, Hitchcock, Hooker, Keith, Keya Paha, Kimball, Lincoln, Logan, Loup, McPherson, Morrill, Perkins, Red Willow, Rock, Scotts Bluff, Sheridan, Sioux, Thomas, and Valley.

## APPENDIX "D" TO RULE 2003-1

### Locations of Chapter 7 §341 Meetings

#### a. Omaha

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in Omaha:

Burt, Cass, Cedar, Cuming, Dakota, Dixon, Dodge, Douglas, Knox, Pierce, Sarpy, Thurston, Washington and Wayne.

#### b. Lincoln

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in Lincoln:

Butler, Colfax, Gage, Jefferson, Johnson, Lancaster, Nemaha, Otoe, Pawnee, Platte, Richardson, Saline, Saunders, Seward.

#### c. Grand Island

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in Grand Island:

Adams, Antelope, Boone, Boyd, Buffalo, Clay, Fillmore, Franklin, Greeley, Hall, Hamilton, Holt, Harlan, Howard, Kearney, Madison, Merrick, Nance, Nuckolls, Phelps, Polk, Sherman, Stanton, Thayer, Webster, Wheeler, York.

#### d. North Platte

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in North Platte:

Arthur, Blaine, Brown, Chase, Cherry, Custer, Dawson, Deuel, Dundy, Frontier, Furnas, Garfield, Gosper, Grant, Hayes, Hitchcock, Hooker, Keith, Keya Paha, Lincoln, Logan, Loup, McPherson, Perkins, Red Willow, Rock, Thomas, Valley.

#### e. Gering

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in Gering:

Banner, Box Butte, Cheyenne, Dawes, Garden, Kimball, Morrill, Scottsbluff, Sheridan, Sioux.

## APPENDIX "E" TO RULE 2003-1

### Locations of Chapter 11, 12 and 13 § 341 Meetings

#### a. Omaha

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in Omaha:

Burt, Cass, Cedar, Cuming, Dakota, Dixon, Dodge, Douglas, Knox, Pierce, Sarpy, Thurston, Washington and Wayne.

#### b. Lincoln

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in Lincoln:

Adams, Antelope, Boone, Boyd, Buffalo, Butler, Clay, Colfax, Fillmore, Franklin, Gage, Greeley, Hall, Hamilton, Harlan, Holt, Howard, Jefferson, Johnson, Kearney, Lancaster, Madison, Merrick, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Phelps, Platte, Polk, Richardson, Saline, Saunders, Seward, Sherman, Stanton, Thayer, Webster, Wheeler and York.

#### c. North Platte

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in North Platte:

Arthur, Banner, Blaine, Box Butte, Brown, Chase, Cherry, Cheyenne, Custer, Dawes, Dawson, Deuel, Dundy, Frontier, Furnas, Garden, Garfield, Gosper, Grant, Hayes, Hitchcock, Hooker, Keith, Keya Paha, Kimball, Lincoln, Logan, Loup, McPherson, Morrill, Perkins, Red Willow, Rock, Scottsbluff, Sheridan, Sioux, Thomas and Valley.

## APPENDIX "F"

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF: ) CASE NO. BK\_\_\_\_\_

)

) CHAPTER 13

)

Debtor(s). )

## CHAPTER 13 FEE APPLICATION

Applicant, \_\_\_\_\_, was retained by the debtor with leave of the Court to serve in this bankruptcy case as \_\_\_\_\_. Applicant hereby requests the Court to approve compensation and reimbursement of expenses as follows:

Total fees requested: \$\_\_\_\_\_

Total expenses to be reimbursed: \$

Amount received to-date  
(exclusive of filing fees) \$\_\_\_\_\_

Amount to be paid through Plan \_\_\_\_\_ \$ \_\_\_\_\_

1. The amount requested, if allowed, will be paid in full after \_\_\_\_\_ monthly payments under the plan.

2. The total time and billings for services in this case to-date:

<u>Identity of Person</u>	<u>Atty/Paralegal/Other</u>	<u>Hours</u>	<u>Rates</u>	<u>Total</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

3. A detailed statement of charges for out-of-pocket expenses in the aggregate amount of \$\_\_\_\_\_ is attached.

4. The following is a short statement of any unusual, troublesome or unique aspects of this case which resulted in more than the usual amount of time being expended: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

5. Unless excused pursuant to a Court order entered under Neb. R. Bankr. P. 2016, attached to this application is a detailed time summary exhibit in compliance with said Neb. R. Bankr. P. 2016.

6. The source of compensation previously paid to Applicant was \_\_\_\_\_.

7. Applicant has not shared or agreed to share any compensation received in connection with the bankruptcy case with any person or entity other than a member or regular associate of applicant's firm. (If such a sharing arrangement exists, it should be disclosed in this paragraph.)

DATED: \_\_\_\_\_

DRAFT

\_\_\_\_\_  
[Applicant]

## APPENDIX "G"

### IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF: ) BK. NO.  
 ) (Chapter 13)  
DEBTOR, )  
CO-DEBTOR, ) **CHAPTER 13 PLAN**  
 )  
DEBTOR(S). )

#### **PAYMENTS**

The Debtor(s) submit to the Standing Chapter 13 Trustee all projected disposable income to be received within the first three (3) years of the plan as follows:

- A. Monthly payment amount: \$\_\_\_\_\_  
B. Number of payments: \_\_\_\_\_  
C. Base amount (A X B): \$\_\_\_\_\_

The payment shall be withheld from the Debtor's paycheck: Yes\_\_ No\_\_

Employee's name whose payroll is deducted: \_\_\_\_\_

Employer's name, address, city, state, phone: \_\_\_\_\_

Debtor is paid: Monthly o Bimonthly o Weekly o Biweekly o Other o

#### **ORDER OF PAYMENT OF CLAIMS**

Trustee fees shall be deducted from each payment made by the Debtor(s) to the Trustee. Claims shall be paid in the following order: 1) Payments due on executory contracts; 2) § 503(b) administrative expenses including the Debtor's attorney fees; 3) Secured claims; 4) Priority claims in the order specified in § 507(a); 5) Co-signed consumer debts; 6) General unsecured claims. Unless otherwise noted, claims within each class shall be paid pro rata.

#### **ADMINISTRATIVE AND PRIORITY CLAIMS**

All claims entitled to priority under 11 U.S.C. § 507 shall be paid in full in deferred cash payments unless the holder of a particular claim agrees to a different treatment of such claim. 11 U.S.C. § 1322(a)(2). It is further provided that any and all pre-petition penalties, and post-petition penalties and interest, which have attached or will be attached to any such claim, shall be treated as a general unsecured claim and not entitled to priority. Such claims are as follows:

Trustee fees shall be deducted from each payment made by the Debtor(s) to the Trustee. The Debtor(s)' Attorney applies for Court approval of fees in the total amount of \$\_\_\_\_\_ (fee application required if more than \$1800). Prior to filing, Debtor(s)' Attorney received \$\_\_\_\_\_

in fees, and the balance of \$\_\_\_\_\_ shall be paid through this plan upon confirmation. Costs in the amount of \$\_\_\_\_\_ are also allowed.

Priority Taxes: Federal: \$\_\_\_\_\_ State: \$\_\_\_\_\_ Total: \$\_\_\_\_\_

Priority Child Support or Alimony: \$\_\_\_\_\_

**SECURED CLAIMS**

**Home Mortgage**

Name of Creditor #1:

Any arrearage shall be paid through the Plan, and the Debtor(s) will pay the regular monthly mortgage payments directly to the mortgage holder.

Estimated Arrearage	Post-confirmation Interest Rate	Pre-confirmation Interest Rate	Dollar Limit If Any On Pre-confirmation Interest	Total Amount
\$	%	%	\$	\$

Name of Creditor #2:

Any arrearage shall be paid through the Plan, and the Debtor(s) will pay the regular monthly mortgage payments directly to the mortgage holder.

Estimated Arrearage	Post-confirmation Interest Rate	Pre-confirmation Interest Rate	Dollar Limit If Any On Pre-confirmation Interest	Total Amount
\$	%	%	\$	\$

Name of Creditor #3:

Any arrearage shall be paid through the Plan, and the Debtor(s) will pay the regular monthly mortgage payments directly to the mortgage holder.

Estimated Arrearage	Post-confirmation Interest Rate	Pre-confirmation Interest Rate	Dollar Limit If Any On Pre-confirmation Interest	Total Amount
\$	%	%	\$	\$

Other Secured Creditors

1) Name: _____ Security: _____ Value: _____ \$ _____ Post-Confirmation Interest Rate: _____ % Pre-Confirmation Interest Rate: _____ % Dollar Limit on Pre-Confirmation Interest (if any) \$ _____ Total Amount: \$ _____	2) Name: _____ Security: _____ Value: _____ \$ _____ Post-Confirmation Interest Rate: _____ % Pre-Confirmation Interest Rate: _____ % Dollar Limit on Pre-Confirmation Interest (if any) \$ _____ Total Amount: \$ _____	3) Name: _____ Security: _____ Value: _____ \$ _____ Post-Confirmation Interest Rate: _____ % Pre-Confirmation Interest Rate: _____ % Dollar Limit on Pre-Confirmation Interest (if any) \$ _____ Total Amount: \$ _____
--	--	--

**CO-SIGNED UNSECURED DEBTS**

The following co-signed debts shall be paid in full at the contract rate of interest from petition date.

Name	Claim:	Interest Rate: %	Total: \$
Name	Claim:	Interest Rate: %	Total: \$

**LIEN AVOIDANCE**

The Debtor(s) shall file a Motion to Avoid the lien of the following creditor(s):

Name 1:	Name 2:	Name 3:
---------	---------	---------

**SURRENDER OF PROPERTY**

Name:	Property Surrendered:
Name:	Property Surrendered:

**EXECUTORY CONTRACTS**

The Debtor(s) reject the following executory contracts:

Name:	Address:	City:	State:	Zip:
Type of Contract:				



Name:	Address:	City:	State:	Zip:
Type of Contract:				

The Debtor(s) hereby assume the lease/executory contracts referenced below and provide for the lease payment to be included in the Chapter 13 plan.

Name:	Type of Lease:		
Address:	Vehicle Description:		
City:	State:	Zip Code:	
Number of Payments Remaining Under the Lease			

The Trustee shall cure the prepetition lease arrearages in the amount of \$\_\_\_\_\_ and commence making the regular monthly lease payments in the amount of \$\_\_\_\_\_ with the first payment due on \_\_\_\_\_, 20\_\_, and shall continue the regular monthly lease payments thereafter from each payment made under the plan.

#### ***UNSECURED CLAIMS***

Allowed unsecured claims shall be paid prorata all remaining funds.

#### ***ADDITIONAL PROVISIONS***

The holder of any allowed secured claim provided for by the plan shall retain a lien securing such claim until the amount for which the claim is allowed as secured or the value of the collateral, securing such claim, whichever is less, is paid in full. 11 U.S.C. § 1325(a)(5)(B).

Property of the estate, including the Debtor's current and future income, shall revert in the Debtor(s) at the time a discharge is issued, and the Debtor(s) shall have sole right to use and possession of property of the estate during the pendency of this case.

In order to obtain distributions under the plan, a creditor must file a proof of claim within ninety (90) days after the first date set for the Meeting of Creditors. Claims filed after this bar date shall be disallowed except as provided in Bankruptcy Rule 3002.

Dated: \_\_\_\_\_.

Debtor(s)

By: s/s \_\_\_\_\_  
Attorney for the Debtor(s)

Attorney Number: \_\_\_\_\_  
Attorney Address: \_\_\_\_\_  
Attorney City, State, Zip: \_\_\_\_\_  
Attorney Phone Number: \_\_\_\_\_  
Attorney Fax Number: \_\_\_\_\_  
Attorney Email Address: \_\_\_\_\_

## APPENDIX "H"

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF: )  
 )  
 ) CASE NO. BK  
 ) CHAPTER 13  
DEBTOR(S) )

## ORDER CONFIRMING PLAN

This matter comes on for confirmation of the debtor(s) Chapter 13 plan (Fil. #\_\_\_\_, as amended or modified, by Fil.(s) #\_\_\_\_).  
The Court finds:

(1) There has been compliance with the provisions of 11 U.S.C. § 1301, et seq., fees required to be paid, have been paid, and the plan has been proposed in good faith and not by any means forbidden by law.

(2) The value of property to be distributed under the plan on account of each allowed unsecured claim is not less than the amount that would be paid on said claim if the debtor(s)'s estate were liquidated under Chapter 7 on the effective date of the plan.

(3) With respect to each allowed secured claim provided for by the plan -

- (A) the holder of such claim has accepted the plan;
- (B) (i) the plan provides that the holder of such claim retain the lien securing such claim; and
- (ii) the value, as of the effective date of the plan, of property to be distributed under the plan on account of such claim is not less than the allowed amount of such claim; or
- (c) the debtor surrenders the property securing such claim to such holder; and

(4) The plan is feasible.

(5) Attorney fees are allowed as stated in the Chapter 13 plan/amended plan.

[(6) For cause shown, plan payments may exceed 3 years as provided in the plan.]

IT IS HEREBY ORDERED, that the plan is confirmed.

DATED:

BY THE COURT:

---

United States Bankruptcy Judge

Notice given to:

Movant (\*) is responsible for giving notice of this journal entry to all other parties (that are not listed above) if required by rule or statute.

DRAFT

## APPENDIX "I"

NEB. OFFICIAL FORM 9-1

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF                                 ) Case No. BK\_\_\_\_\_

(Chapter 9)

)

)

)

NOTICE OF COMMENCEMENT OF CASE UNDER CHAPTER 9  
NOTICE OF AUTOMATIC STAY, NOTICE OF TIME  
FOR FILING RESISTANCES TO THE PETITION, ORDER FOR RELIEF,  
NOTICE OF TIME FOR FILING PROOFS OF CLAIMS,  
AND RELATED ORDERS COMBINED WITH NOTICE THEREOF

TO: The Debtor, Creditors, Special Taxpayers and Other Parties  
in Interest.

IT IS ORDERED that debtor shall give immediate notice of the following to all parties in interest and shall publish notice of the commencement of the case and notice of the order of relief required by 11 U.S.C. § 923 and shall file with the Court proofs of publication not later than 10 days after the last publication.

IT IS FURTHER ORDERED that the last publication of the notice of commencement and notice of the order of relief shall be not less than 15 days prior to the last day to file resistances to the petition.

IT IS FURTHER ORDERED that the debtor shall file with the Court proof of service by mail at least three business days before the last date for filing of resistances to the petitioner.

IT IS FURTHER ORDERED that all publications required pursuant to 11 U.S.C. § 923 shall be made in the "Wall Street Journal" and the "Omaha World Herald."

IT IS FURTHER ORDERED and notice is hereby given of:

1. Notice of Commencement of a Case Under Chapter 9. A case under Chapter 9 of the Bankruptcy Code was commenced by the filing of a petition by the debtor named above on \_\_\_\_\_.

2. Notice of Automatic Stay. The filing of the petition operates as a stay applicable to all entities of the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against an officer or inhabitant of the debtor that seeks to enforce a claim against the debtor, and the enforcement of a lien on or arising out of taxes or assessments owed to the debtor, and certain other acts and proceedings against the debtor and its property as provided in 11 U.S.C. §§ 362 and 922.

3. Notice of Time for Filing of Resistances to the Petition. Resistances to the petition may be filed by a party in interest not later than 45 days after the mailing of this notice by the debtor to all creditors, special taxpayers and other parties in interest. 11 U.S.C. § 921(c). Resistances shall be filed with the Clerk, U.S. Bankruptcy Court for the District of Nebraska, Box 428 DTS, Omaha, Nebraska 68101-0428, and copies of the resistances shall be mailed to the attorney for the debtor. All resistances shall state the facts and legal authorities in support of such resistances. If any timely resistances are filed with the Court, the Court will order the resisting party to give proper notice to all parties in interest of the hearing on the resistances.

4. Order for Relief. The filing of the petition constitutes an order for relief under Chapter 9, and this notice shall be deemed notice of such order for relief. 11 U.S.C. §§ 901 and 301. The filing of a resistance to debtor's petition shall be deemed to constitute a motion to vacate the order of relief, and the Court shall proceed as follows: After notice by the resisting party and a hearing, it may dismiss the petition, subject to 11 U.S.C. § 921(e), if the debtor did not file the petition in good faith or if the petition does not meet the requirements of Chapter 9, Title 11, U.S.C.

5. Notice of Time for Filing Proofs of Claims. The debtor has filed or will file a list of claims. Any creditor holding a listed claim which is not disputed, contingent, or unliquidated as to amount, may, but need not, file a proof of claim in this case. Creditors whose claims are listed or whose claims are listed as disputed, contingent, or unliquidated as to amount and who desire to participate in the case or share in any distribution must file their proofs of claims on or before [either the specific bar date established by Court Order or "a date to be established by the Bankruptcy Court on application by the debtor."] Any creditor who desires to rely on the list has the responsibility for determining that the claim is accurately listed.

6. Notices. All notices required by subdivisions (a)(2), (3) and (7) of Bankruptcy Rule 2002 shall be mailed only to the committee(s) or to their authorized agents and to the creditors who file with the Court a request that all notices be mailed to them.

DATED: \_\_\_\_\_

BY THE COURT:

\_\_\_\_\_  
U.S. Bankruptcy Judge

PROOF OF CLAIM FORMS WILL NOT BE FURNISHED BY THIS OFFICE - THEY MUST BE PURCHASED FROM A COMMERCIAL SUPPLIER.

## APPENDIX "J"

### CHAPTER 12 STANDING TRUSTEE FEES

In the administration of cases under Chapter 12 of the Bankruptcy Code, a Chapter 12 Standing Trustee is appointed to participate in the administration of the case and to monitor plan performance post-confirmation.

Among the duties the Chapter 12 Standing Trustee is to perform are an accounting of property, examination of claims, provide information to creditors, and to file a final accounting. In addition, the Chapter 12 Standing Trustee is to examine the financial affairs of the debtor and to report on any mismanagement. The Chapter 12 Standing Trustee appears at confirmation hearings and monitors the payments required under the confirmed plan.

The Chapter 12 Standing Trustee is to be paid a fee of up to 10% of payments made under the confirmed plan. Such fee is to be paid from payments received by the Chapter 12 Standing Trustee. Since Chapter 12 was modeled on Chapter 13, there was a reasonable expectation that most, if not all, plan payments would be received by the Chapter 12 Standing Trustee for distribution.

However, because of the decision in *In re Wagner*, 36 F.3d 723 (8th Cir. 1994), plan payments can be made directly to creditors. Thus, although the Chapter 12 Standing Trustee would be entitled to a fee, there would be no funds available to pay it. This result threatens the integrity of the Chapter 12 process and creates an inequitable burden upon the Chapter 12 Standing Trustee who has statutory duties to perform but would not be paid. The Court is aware that Chapter 12 Standing Trustees in other jurisdictions have resigned because of this problem.

The Court finds that the Chapter 12 Standing Trustee performs a valuable service to the Court and to the parties in the Chapter 12 process and should be retained. The Court also finds that requiring a Chapter 12 debtor to pay a fee is not inequitable in view of the benefits derived from debtors' reorganization and from the services of the Chapter 12 Standing Trustee.

The Court is empowered under the provisions of § 105 of the Bankruptcy Code to issue orders necessary or appropriate to carry out the provisions of this title. Such an order is necessary and appropriate in the District of Nebraska in order to assure that the Chapter 12 bankruptcy cases proceed in an orderly fashion and that the integrity of the Chapter 12 cases be maintained.

Whether a Chapter 12 plan provides for payments to be made to creditors directly or through the Chapter 12 Standing Trustee, the debtor shall pay to the Chapter 12 Standing Trustee a fee, for each year of the plan, which shall be lesser of 10% of all payments under the plan (or such other percentage as is set by the Attorney General or his or her delegate from time to time pursuant to the requirements of 28 U.S.C. § 586 (e)), or \$4,000.00.

APPENDIX "K"

NEB. OFFICIAL FORM 7055-1 ORDER

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF: ) CASE NO. BK. \_\_\_\_\_  
 ) (Chapter \_\_\_\_\_)  
 )  
\_\_\_\_\_, Debtor(s). ) ADV. PRO. NO. \_\_\_\_\_  
 )  
 ) CLERK'S ENTRY OF DEFAULT  
\_\_\_\_\_, Plaintiff(s), )  
vs. )  
 )  
 )  
\_\_\_\_\_, Defendant(s). )

The defendant(s), \_\_\_\_\_, having failed to plead or otherwise defend in this action;

Now, upon application of the plaintiff(s) and upon affidavit that the time within which the defendant(s) may answer or otherwise respond to the complaint has expired; and that no answer or other response has been filed; and there has been no extension of such time;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that default in this action is hereby entered in accordance with Federal Rule of Civil Procedure 55(a) as incorporated by Federal Rule of Bankruptcy Procedure 7055.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BY THE COURT:

\_\_\_\_\_  
Diane L. Zech, Clerk

Notice given to:

## APPENDIX "L"

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:	)	
	)	CASE NO.
	)	
	)	Chapter
	)	
DEBTOR(S)	)	

**REQUEST TO DISCONTINUE SERVICE OF NOTICES**

PLEASE TAKE NOTICE that the undersigned appearing as counsel for \_\_\_\_\_, creditor and party-in-interest in the above-captioned matter, requests to be administratively terminated in this case for the purpose of receiving notices. The undersigned CREDITOR no longer wishes to receive notices from the Court, either in electronic form or by first class mail IN THIS CASE.

CREDITOR:

BY:

DRAFT BY: \_\_\_\_\_

# CERTIFICATE OF SERVICE

I hereby certify that on \_\_\_\_\_ (DATE), I caused filing of the foregoing with the Clerk of the Bankruptcy Court using the CM/ECF system, and further certify that on the same date I mailed by United States Postal Service, postage prepaid, the document to the non-CM/ECF participants named on the current matrix.

S/ \_\_\_\_\_



**APPENDIX "M"**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

**SAMPLE FORMAT - CERTIFICATE OF SERVICE**

I hereby certify that on \_\_\_\_\_ (DATE) \_\_\_\_\_, I caused filing of the foregoing with the Clerk of the Bankruptcy Court using the CM/ECF system, and further certify that on the same date I mailed by United States Postal Service, postage prepaid, the document to the non-CM/ECF participants named on the current matrix.

s/\_\_\_\_\_

DRAFT

## APPENDIX "N"

### DOCKETING STANDARDS FOR EVIDENCE

For ease in offering evidence in the Courtroom and to provide continuity on the dockets, the following standards have been established. The events have been modified to assist in this process.

#### **Documentary Evidence: Exhibits/Affidavits/ Declarations**

1. Do NOT attach evidence to a Certificate of Service, Exhibit List, Notice of Intent to Offer Evidence or Index of Evidence. Each item of evidence to be offered should be filed separately. Any supporting documents to the item of evidence to be offered may be filed as attachments to the evidence, but must have an informative description.

Example - an affidavit with supporting documents. The supporting documents will be filed as attachments to the affidavit with the attachments being described as promissory note, bank statement, deed of trust, appraisal, etc. Do not name attachments to the evidence as Exhibit 1 without a more detailed description. See example of Docket Entry Examples below.

2. The docket text should be in the following format:  
Exhibit: [description of exhibit] in support of [motion or objection] (additional text may be added for further clarification). If the exhibit is an affidavit or declaration, the affiant should be identified. Example: Affidavit of [affiant] in support of [motion or objection].
3. Items will be offered in Court by the Court's document number.
4. It is further recommended that evidence lists (Exhibit Lists, Notice of Intent to Offer Evidence and Indexes of Evidence) be filed *after* the actual exhibits allowing parties to reference the Court's document numbers in their Exhibit Lists.

Docket Entry Examples:

#### **Docket Text: Final Text**

**Affidavit of Jane Doe in Support of Objection to Motion for Relief. Filed by Patricia Dugan (related document(s)[4]). (Attachments: # (1) Exhibit Promissory Note# (2) Exhibit Deed of Trust) (Scheibatty, Patty)**

#### **Docket Text: Final Text**

**EXHIBIT - Bank Statement in Support of Motion for Relief. Filed by Patricia Dugan (related document(s)[3]). (Scheibatty, Patty)**

## APPENDIX "O"

### CHAPTER 13 FEE REQUESTS

1. Attorney Fees. In Chapter 13 cases, counsel for the debtor, without filing a fee application, may include in the Chapter 13 Plan a request for the allowance of up to \$1,800.00 in attorney fees and expenses not to exceed \$200.00. The amount of fees and anticipated expenses specified in the Plan shall be deemed allowed upon confirmation of the Plan. Such fees represent compensation for the specific items listed in paragraph 2 below. If counsel for the debtor has provided extraordinary legal services to the debtor and earned fees in excess of \$1,800.00 either prior to confirmation or following confirmation, counsel may file a detailed fee application, served in accordance with Neb. R. Bankr. P. 9013-1, either prior to or after confirmation of a Plan. Whether an objection to the additional fees is filed, or not, such fee application shall be closely scrutinized by both the Chapter 13 Trustee and the Court. The Chapter 13 Trustee may, but is not required to file a "comment" concerning the hourly rate, the time involved, the services provided or the total amount of fees requested. Except for any prepetition retainer, counsel for the debtor may not receive fees directly from the debtor. Fees shall be paid through the Plan unless otherwise ordered. If a Chapter 13 case is dismissed or converted to another chapter prior to confirmation, the Chapter 13 Trustee is authorized to pay the balance of the attorney fees requested in the Plan from funds held by the Trustee. If counsel desires consideration of a request for additional fees, a separate motion must be filed.

2. Services Included in Standard Allowable Fee.

Legal services covered by the standard allowable fee of \$1,800.00 in Chapter 13 cases are the following:

- a. Meet with the debtor to review the debtor's debts, assets, liabilities, income, and expenses. Counsel the debtor regarding the advisability of filing either a Chapter 7 or Chapter 13 case. Discuss both procedures with the debtor and answer the debtor's questions. Explain what payments will be made directly by the debtor and what payments will be made through the debtor's Chapter 13 Plan, with particular attention to mortgage loan payments, as well as any other claims which accrue interest.
- b. Explain to the debtor how, when and where to make the Chapter 13 Plan payments. Explain to the debtor that the first plan payment must be made to the Trustee within thirty days of the date the Plan is filed.

- c. Advise the debtor of the requirement to attend the § 341 Meeting of Creditors, and instruct the debtor as to the date, time and place of the meeting. Appear at the § 341 Meeting of Creditors with the debtor.
- d. Advise the debtor of the necessity of maintaining liability, collision and comprehensive insurance on vehicles securing loans or leases.
- e. Timely prepare and file the debtor's Petition, Plan, Statements and Schedules. Respond to objections to plan confirmation, and where necessary, prepare an amended plan. Prepare, file, and serve necessary modifications to the Plan. Prepare, file, and serve necessary amended statements and schedules, in accordance with information provided by the debtor.
- f. Prepare, file, and serve necessary motions to buy, sell, or refinance real property when appropriate.
- g. Object to improper or invalid claims, if necessary, based upon documentation provided by the debtor.
- h. Represent the debtor concerning motions for relief from stay.
- i. When appropriate, prepare, file, and serve necessary motions to avoid liens on real or personal property.
- j. Provide such other legal services as are necessary for the proper administration of the case.